



INCOME TAX ACT 1961 TO INCOME TAX BILL 2025

Trusts, NGOs & NPOs

Tarun Kumar Madaan

Date: 21 March 2025 (Friday)

Agenda

- Overview of the Existing Scheme under the Income-tax Act
- Challenges in the Existing Scheme
- Framework Proposed in the Income-tax Bill
- Overview of New Scheme
- Key Changes in New Scheme

Overview of Existing Scheme of Taxation under Income-tax Act

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Scheme under ITA

Section	Description
2(15)	Definition of Charitable Purpose [CHAPTER I – Preliminary]
11	Income from property held for charitable or religious purposes [CHAPTER III - Incomes which do not form part of total income]
12	Income of trusts or institutions from contributions [CHAPTER III - Incomes which do not form part of total income]
12A	Conditions for applicability of sections 11 and 12 [CHAPTER III - Incomes which do not form part of total income]
12AA	Procedure for registration [CHAPTER III - Incomes which do not form part of total income]
12AB	Procedure for fresh registration [CHAPTER III - Incomes which do not form part of total income]
12AC	Merger of charitable trusts or institutions in certain cases [CHAPTER III - Incomes which do not form part of total income]
13	Section 11 not to apply in certain cases [CHAPTER III - Incomes which do not form part of total income]

Scheme under ITA

Section	Description
80G(5)	Approval for Deduction in respect of donations to certain funds, charitable institutions, etc. [CHAPTER VIA - Deductions to be made in computing total income]
115BBC	Anonymous donations to be taxed in certain cases [CHAPTER XII - Determination of tax in certain special cases]
115BBI	Specified income of certain institutions [CHAPTER XII - Determination of tax in certain special cases]
115TD	Tax on accreted income [CHAPTER XIIEB - Special provisions relating to tax on accreted income of certain trusts and institutions]
115TE	Interest payable for non-payment of tax by specified person [CHAPTER XIIEB - Special provisions relating to tax on accreted income of certain trusts and institutions]
115TF	When specified person is deemed to be assessee in default [CHAPTER XIIEB - Special provisions relating to tax on accreted income of certain trusts and institutions]

Challenges in Existing Scheme

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Scattered Provisions

The present provisions related to Charitable trusts are contained in the following Chapters:

- Chapter I: Charitable Purpose sec 2(15).
- Chapter III: Sections 10(23C), section 11, section 12, section 12A, section 12AA, section 12AB, section 12AC & section 13.
- Chapter VIA: Section 80G
- Chapter XII: Section 115BBC, Section 115BBI
- Chapter XII EB: Section 115TD, Section 115TE, Section 115TF

Since the provisions are spread across Chapters, there are several cross-references.

Complex Legal Language

- The provisions related to charitable trusts have evolved with time; several amendments have been brought to the present Act in the form of Explanations and provisos, making them difficult to read.
- In Section 11 itself, there are 13 Explanations and 16 provisos.
- The interplay of different provisos and Explanations makes it quite difficult to understand.

Framework in Income-tax Bill

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Consolidation of Provisions

All Provisions have been arranged in Chapter XVII titled “B.—Special Provisions for Registered Non-Profit Organisation.

Use of Term NPO

The expressions trust or institution or university or hospital or religious trust are substituted by the **single expression “Non-profit Organisation” (NPO)**.

Meaning of Registered NPO

The term NPO has not been defined under the Act. In general, an NPO is an organisation that does not exist for a profit motive.

However, for this Part, a **Registered NPO** shall mean:

355(g) “registered non-profit organisation” means any person having a valid registration under any specified provision and such registration has not been cancelled;

Simplified Language

No use of Proviso and Explanations:

The new law streamlines the language of statutory provisions by eliminating complex provisos and explanations.

Tabular Presentation

Some of the provisions have been tabulated for lucid understanding of different scenarios, such as the provisions related to:

- Application for registration;
- Specified income and the tax year in which it is taxable;
- Computation of tax on accreted income.

Omissions

Redundant provisions have been removed.

Overview of New Scheme

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Chapter XVII - Part B “Special Provisions for Registered Non-Profit Organisation.”

The legislative framework governing NPOs has been restructured and consolidated into seven sub-parts [Clauses 332 to 355 of the Income-tax Bill, 2025], covering the following aspects:

- Registration [Clauses 332 to 333]
- Income [Clauses 334 to 343]
- Commercial Activities [Clauses 344 to 346]
- Compliances [Clauses 347 to 350]
- Violations [Clauses 351 to 353]
- Approval for Donations [Clause 354]
- Interpretations [Clause 355]

Structure of Chapter XVII - Part B

1. Registration

- Application for Registration
- Switching Over of Regimes

2. Income

- Tax on income of registered NPO
- Regular Income
- Taxable Regular Income
- Specified Income
- Income not to be included in total income
- Corpus Donation
- Deemed Corpus donation
- Application of income
- Accumulation of income
- Deemed Accumulation of income

3. Commercial Activities

- Business undertaking held as the property
- Commercial Activities by Registered NPO
- Commercial Activities by registered NPO with GPU

4. Compliances

- Books of Account
- Audit
- Return of Income
- Permitted Modes of Investment

5. Violations

- Specified Violations
- Tax on Accrued Income
- Other Violations

6. Approval for Donations

7. Interpretations

Key Changes in New Provisions

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Definition of Charitable Purpose [Clause 2(23)]

Corresponding Provision:

Section 2(15) of the ITA.

Definition of Charitable Purpose [Clause 2(23)]

'Charitable Purpose' includes:

- (a) relief of the poor;
- (b) education;
- (c) yoga;
- (d) medical relief;
- (e) preservation of the environment (including watersheds, forests and wildlife);
- (f) preservation of monuments or places or objects of artistic or historic interest;
- (g) the advancement of any other object of general public utility.

Definition of Charitable Purpose [Clause 2(23)]

Omission of Restrictive Proviso:

- There was a Proviso restricting NPOs engaged in the advancement of any other object of general public utility (GPU) under Section 2(15).
- New definition under clause 2(23) omits this restrictive proviso.
- Clause 346 of ITB incorporates a similar restriction on commercial activities by registered NPOs engaged in GPU.

Application for Registration [Clause 332]

Corresponding Provision:

Section 12A and 12AB of the ITA.

Application for Registration [Clause 332]

- Clause 332 of ITB governs the registration process for NPOs seeking benefits under this Part.
- To qualify as a registered NPO, an application for registration must be submitted to the PCIT/CIT in the prescribed form and manner.
- The process, application time limits, registration period, and procedures followed by the PCIT/CIT, powers of condonation of delay remain largely the same under the ITB.
- The provisions regarding the time limits for submitting applications, passing orders, and registration validity are now presented in tabular form within the law itself.

Application for Registration [Clause 332]

Clarity on carrying out multiple charitable purposes:

- Clause 332(2)(a) now explicitly permits NPOs to pursue multiple charitable purposes as listed under clause 2(23).
- Previously, whether an NPO could engage in multiple charitable objects or was restricted to a single category under Section 2(15) was ambiguous.
- This clarification ensures that NPOs can operate across multiple charitable purposes.

Application for Registration [Clause 332]

Re-registration on modification of objects:

- ITB proposes to mandate re-registration in cases where a registered NPO has adopted or undertaken modifications to its objectives.
- Previously, this requirement explicitly applied where a trust that adopted or undertook modifications to its objects, which did not conform to the conditions of its registration.
- The proposed provisions do not impose the condition that such modifications must be inconsistent with the original registration terms.
- Accordingly, all NPOs must now apply for re-registration upon any adoption or modification of their objectives, irrespective of whether such modifications align with the conditions of their initial registration.

Application for Registration [Clause 332]

Requirement to Registration:

- Under ITB, institutions wholly or partially financed by the Government or a local authority must now obtain registration to qualify for tax exemptions.
- These NPOs enjoy blanket tax exemption clauses (iiiab) and (iiiac) of Section 10(23C). While such NPOs continue to enjoy such exemptions under new law without any additional conditions under schedules.
- However, there appears to be a requirement to obtain NPO registration under Clause 332, which makes tax exemption subject to the fulfilment of various conditions.
- The intent of extending registration requirements to such NPOs is unclear and creates overlap.

Switching Over of Regime [Clause 333]

Corresponding Provision:

Section 11(7) of the ITA.

Switching Over of Regime [Clause 333]

- Registered NPOs cannot claim an exemption under Clause 11 of ITB except some provisions mentioned in Schedules to ITB.
- However, the registration granted under Clause 332 shall cease to operate from the date the NPO is notified under these provisions or claim exemption under these provisions.
- A person whose registration ceases to operate may apply for making its registration operative again under Clause 332 of ITB subject to the condition that the notification granting exemption under that particular provision ceases to have effect from the date on which the said registration is granted and thereafter shall not be entitled to exemption under the respective serial numbers of the Schedules.

Tax on income of registered NPO [Clause 334]

Corresponding Provision:

No similar provision in ITA.

Instead, different provisions governed the taxation of certain types of income like Section 115BBI, 115BBC and 164(2)

Tax on income of registered NPO [Clause 334]

ITB introduces clause 334, which provides for the tax payable by registered NPOs. The income tax payable by a registered NPO for any tax year shall be computed as follows:

- (a) 30% tax rate on 'specified income' for that tax year; and
- (b) Tax at applicable rates on taxable regular income and any residual income under other provisions of the Act.

Regular Income [Clause 335]

Corresponding Provision:

No similar provision in ITA.

Under the IT Act, no provision explicitly defined the components of regular income for trusts or NPOs. Instead, the different categories of income were addressed under various provisions:

- Income from property or investments was covered under section 11(1).
- Business income was addressed under section 11(4) and 11(4A).
- Voluntary contributions were covered under section 12(1).

Regular Income [Clause 335]

The regular income of a registered NPO for any tax year shall include the following:

- (a) Activity Income:** Receipts from a charitable or religious activity from activities carried out by such registered NPO in such tax year;
- (b) Income from property or investments:** Receipts, other than from commercial activities, whether capital or revenue, derived from any property or investment held by such registered NPO in such tax year;
- (c) Voluntary contributions:** Voluntary contributions received by such registered NPO in such tax year; and
- (d) Business held as property and incidental business income:** The gains from any commercial activity, other than the commercial activities restricted under clauses 345 and 346 of ITB, carried out by such registered NPO in such tax year, computed in such manner as prescribed.

Regular Income [Clause 335]

Meaning of Activity Income:

receipts from any charitable or religious activity, for which it is registered, carried out by such registered non-profit organisation in such tax year;

Although including receipts from charitable or religious activities within the definition of Activity Income is a significant development, the scope and precise interpretation of what constitutes such receipts remains unclear under the current provisions.

Taxable Regular Income [Clause 336]

Corresponding Provision:

Section 11(1)(a) and 11(1)(b) of ITA.

Taxable Regular Income [Clause 336]

The taxable regular income of a registered NPO for any tax year shall be determined as follows:

- (a) Nil Income:** The taxable regular income shall be nil if 85% or more of the regular income for the tax year has been applied or accumulated under clause 342 of ITB for charitable or religious purposes, in accordance with the provisions of this Part.
- (b) Taxable Income:** In any other case, the taxable regular income shall be 85% of the regular income for the tax year, reduced by the amount of such income applied for charitable or religious purposes or accumulated under clause 342 of ITB in accordance with the provisions of this Part.

Taxable Regular Income [Clause 336]

- There is no change in the method of calculation. Therefore, the taxable income will be deemed nil if 85% of the regular income is applied or accumulated for charitable or religious purposes.
- If less than 85% is applied or accumulated, the shortfall in the application or accumulation of 85% shall be considered taxable regular income and subject to tax.

Specified Income [Clause 337]

Corresponding Provision:

Various incomes/violations were subject to special tax rates were governed under different provisions, including taxation under section 115BBI for specified violations, taxation of anonymous donations under section 115BBC, and taxation under section 164(2) as an Association of Persons (AOP), Section 13, Section 12(2).

With the introduction of clause 337 in ITB, all specified income categories are now consolidated under a single provision.

Specified Income [Clause 337]

- Clause 337 delineates the categories of income that shall be considered “specified income” for a registered NPO, and
- The tax year in which such income shall be subject to taxation.

Specified Income [Clause 337]

Specified Income	Tax Year
Anonymous donation above threshold (Other than wholly religious NPO)	Tax year in which such anonymous donation is received.
Income applied for benefit of related person	Tax year in which such application is made.
Application outside India (Other than 338(a))	Tax year in which such application is made.
Investment made in contravention of 350	Tax year in which such investment is made.
Violation of conditions of Deemed Corpus	Tax year in which such violation occurs.
Accumulated income applied for other purposes	Tax year in which such application occurs.
Accumulated income ceases to be accumulated	Tax year in which it ceases to be accumulated or set apart.
Accumulated income not utilised for the purpose for which it was accumulated	The last tax year for which the income was accumulated or set apart.
Any portion of accumulated income credited or paid to any other registered NPO	Tax year in which such credit or payment is made.
Any income applied to purposes other than charitable or religious purposes	Tax year in which such application occurs.
Any income determined by the Assessing Officer under Clause 344 in excess of income shown in the books of account of such business undertaking	Tax year to which such income relates

Specified Income [Clause 337]

Anonymous Donation by NPO:

- Anonymous donations received by an NPO established wholly for religious purposes are excluded from the definition of specified income
- Under section 115BBC of ITA, this exemption was available not only to trusts or institutions established wholly for religious purposes but also to those established wholly for both religious and charitable purposes.
- However, under the earlier provision, if an anonymous donation was received with a specific direction that it was intended for a university, other educational institution, hospital, or medical institution run by the trust, such donations were subject to tax
- While other anonymous donations made to institutions engaged in both religious and charitable activities remained exempt under section 115BBC, this exemption has not been extended under clause 337 of ITB

Income not to be included in Regular Income [Clause 338]

Corresponding Provision:

- Clause 338(a) is similar to section 11(1)(c) of the ITA.
- Clause 338(b) aligns with the section 11(1)(d) of ITA.

Income not to be included in Regular Income

[Clause 338]

Income applied outside India

Income applied outside India shall be excluded only where the Board, by general or special order, directs that such income shall not be included in the total income of a registered NPO, provided that:

- (a) The NPO was created before April 1, 1952, for charitable or religious purposes, or
- (b) The NPO was created on or after April 1, 1952, for charitable purposes, and the application of income outside India promotes international welfare in which India has an interest.

Income not to be included in Regular Income [Clause 338]

Corpus Donation:

Corpus donations received by a registered NPO under clause 339 of ITB shall also be excluded from regular income.

The definition and treatment of Corpus Donations are provided under clause 339 of ITB.

Corpus Donation [Clause 339]

A corpus donation refers to any donation made with a specific direction from the donor that it shall form part of the corpus of the registered NPO.

Such a donation must be invested or deposited in one of the permitted modes prescribed under clause 350 of ITB and maintained specifically for such corpus.

Deemed Corpus Donation [Clause 340]

Corresponding Provision:

Explanation 3A to section 11(1) of ITA.

Deemed Corpus Donation [Clause 340]

Where the property of a registered NPO includes any temple, mosque, gurdwara, church, or any other place notified under clause 133(1)(b)(vi) of the ITB, any donation received by such NPO specifically for the renovation or repair of such religious place may, at its option, be treated as forming part of the corpus under clause 339 of the ITB, provided the following conditions are met:

- (a) The corpus is maintained as a separate identifiable fund;
- (b) The corpus is applied exclusively for the purpose for which the donation was made;
- (c) The corpus is invested or deposited in one of the permitted modes under clause 350 of ITB; and
- (d) The corpus is not utilised for making donations to any other person.

Application of Income [Clause 341]

Corresponding Provision:

Explanation 2,3,4,5 to section 11(1), Section 11(6) and Explanation to Section 11(7) of ITA

Application of Income [Clause 341]

Clause 341 of the ITB governs the provisions related to the allowable application of income for registered NPOs.

- The income must be applied exclusively for charitable or religious purposes in India and align with the objectives for which the NPO is registered.
- The expenditure must be incurred on a payment basis during the relevant tax year.
- TDS compliance and cash payment restrictions [Payments must comply with the limitations prescribed under clauses 36(4), (5), (6), (7), and clause 35(b)(i) of the ITB.]
- Only 85% of donations made to another registered NPO qualify as an application of income.
- Corpus donations to another registered NPO are not considered an application of income.
- Restoration of Corpus Funds within five years from the end of the tax year in which it was utilised [original application must have been made post-March 31, 2021]
- Repayment of loans qualifies as an application of income if the repayment occurs within five years from the end of the tax year in which the loan was utilized [loan was originally applied post-March 31, 2021]

Application of Income [Clause 341]

- **Depreciation and double deduction:** Depreciation is not allowable as an application of income if the asset's acquisition cost was previously claimed as an application.
- **Set-off or carry-forward of excess application:** No set-off, deduction, or allowance for excess application of income from previous years is permitted.
- The amount applied out of the following shall not be considered as an application of income:
 - Corpus.
 - Loans or borrowings.
 - Accumulated income.
 - Specified income.
 - Deemed accumulated income.

No Deemed Application

Omission of Provision similar to Explanation 2 to Section 11(1) (Deemed Application of Income):

- According to *Explanation 2* to section 11(1) of the ITA provides that if in the previous year, a charitable trust is not able to utilise 85 per cent of its income due to the fact that such income has not been received in the previous year or for any other reason, then the trust has the option to apply such income in the year of receipt or in the year, immediately following the year of accrual of income.
- Such deemed application of income shall be considered when the institution furnishes the details electronically in Form 9A.
- No corresponding provision has been proposed in the ITB.

No Capital Gains Exemption

Omission of Provision similar to Section 11(1A) (Capital Gains Exemption on Reinvestment):

- Section 11(1A) of the ITA contains the special provisions where a property held under trust is transferred, and consideration is utilised for acquiring another capital asset; the capital gain arising from the transfer is deemed to have been applied for charitable or religious purposes.
- The application of income, in such a case, shall be calculated in the prescribed manner.
- However, no corresponding special provision has been proposed in the ITB.

Accumulation of Income [Clause 342]

Corresponding Provision:

Section 11(2) of ITA

Accumulation of Income [Clause 342]

Clause 342 of the ITB provides a legal framework for the accumulation of income by registered NPOs:

- Registered NPO can accumulate income for a specified purpose, subject to the submission of a statement to the Assessing Officer on or before the due date prescribed under clause 263(1) of ITB.
- Any income transferred to another registered NPO out of accumulated income shall not be considered an application of income.
- Accumulation can be for a period upto five years.
- Accumulated income to be invested in modes prescribed under clause 350 of ITB.
- NPOs can apply to the Assessing Officer to change the purpose of accumulated income.
- Transfer of accumulated income to another registered NPO upon dissolution, subject to the approval of the Assessing Officer.

Accumulation of Income [Clause 342]

Due Date to file Statement of Accumulation:

- Clause 342(1) of ITB requires that the statement of accumulation be filed on or before the due date for filing the Income Tax Return under clause 263(1) of ITB.
- Section 11(2) of ITA mandates that Form 10 be filed at least two months before the due date under section 139(1) of ITA.

Deemed Accumulated Income [Clause 343]

Corresponding Provision:

No similar provision in ITA.

Deemed Accumulated Income [Clause 343]

- The regular income, after deducting the income applied and accumulated under clause 342 of ITB, shall be deemed to be accumulated income to the extent of 15% of the regular income.
- This deemed accumulation shall be mandatorily invested or deposited in any of the prescribed modes under clause 350 of ITB.

Business Undertaking held as Property [Clause 344]

Corresponding Provision:

Similar to Section 11(4) of the ITA.

Business Undertaking held as Property [Clause 344]

Clause 344 of the ITB provides that where a registered NPO holds a business undertaking as part of its property and claims that the income derived from such an undertaking is eligible for tax benefits under this Part, the Assessing Officer shall have the authority to determine the income of the business undertaking in accordance with the provisions of this Act.

Restriction on Commercial Activities by Registered NPO [Clause 345]

Corresponding Provision:

Similar to Section 11(4A) of the ITA.

Restriction on Commercial Activities by Registered NPO [Clause 345]

NPOs other than GPU may carry out commercial activities only if:

- (a) Such commercial activity is incidental to the attainment of the organisation's objectives; and
- (b) Separate books of account are maintained for such activities.

Restriction on Commercial Activities by Registered NPO [Clause 345]

- The primary distinction between clause 345 and section 11(4A) of ITA is the introduction of categorical restrictions on NPOs engaged in specific charitable activities.
- Clause 345 provides that the NPO, other than GPU category NPO, can not engage in commercial activities. Therefore, as per clause 345, registered NPOs engaged in the relief of the poor, education, yoga, medical relief, preservation of the environment (including watersheds, forests and wildlife), preservation of monuments, places, or objects of artistic or historic interest are prohibited from engaging in commercial activities except where such activities are incidental to the attainment of their objectives and separate books of account are maintained.

Restriction on Commercial Activities by GPU NPO

[Clause 346]

Clause 346 imposes specific restrictions on registered NPOs engaged in the advancement of any other object of general public utility (GPU) concerning their ability to conduct commercial activities. Such NPOs may only undertake commercial activities if the following conditions are met:

- (a) The commercial activity is undertaken in the course of actual advancement of the general public utility objective of the registered NPO.
- (b) The aggregate receipts from such commercial activity do not exceed 20% of the total receipts of the registered NPO for the relevant tax year.
- (c) Separate books of account are maintained by the registered NPO for such commercial activities.

Restriction on Commercial Activities by GPU NPO

[Clause 346]

- The key difference between clause 346 and proviso to section 2(15) is that the proviso to section 2(15) did not require NPOs to maintain separate books of account for commercial activities.
- Clause 346 now mandates that separate books of account must be maintained for such activities.

Books of Accounts [Clause 347]

Corresponding Provision:

Section 12A(1)(b)(i) of ITA

Books of Accounts [Clause 347]

If the total income of a registered NPO exceeds the maximum amount not chargeable to income tax in any tax year, such NPO shall be required to keep and maintain books of account and other documents in the prescribed form, manner, and location, as specified by the relevant rules.

Audit [Clause 348]

Corresponding Provision:

Section 12A(1)(b)(ii) of ITA

Audit [Clause 348]

- If the total income of a registered NPO exceeds the maximum amount not chargeable to income tax in any tax year, the accounts of such NPO must be audited by an accountant.
- The person receiving the income shall be required to furnish an audit report by such date in the prescribed form, duly signed and verified by the accountant, setting forth such particulars as may be prescribed.

Return of Income [Clause 349]

Corresponding Provision:

Section 12A(1)(ba) of the ITA.

Return of Income [Clause 349]

If the total income of a registered NPO exceeds the maximum amount not chargeable to income tax in any tax year, it shall be required to furnish a return of income for that tax year in accordance with the provisions of clause 263(1)(a)(iii), within the prescribed time limit under sub-section (1)(b) of that section.

Return of Income [Clause 349]

- Under ITA, exemption under this chapter was available only if the return of income was filed within the time allowed for filing the original return under section 139(1) or the belated return under section 139(4).
- However, under the ITB, there is no reference to the belated return under clause 263(4) of ITB.
- As a result, exemption can now only be claimed if the income tax return is filed within the original due date prescribed under clause 263(1)(b).

Permitted Modes of Investment [Clause 350]

Corresponding Provision:

Section 11(5) of the ITA.

Permitted Modes of Investment [Clause 350]

- Clause 350(1) of the ITB provides that the modes of investment or deposit of funds under this Part shall be as specified in Schedule XVI.
- Further, clause 350(2) provides that in addition to the modes specified in Schedule XVI, the Central Government may, by notification, prescribe other permitted modes of investment or deposit under this Part.

Permitted Modes of Investment [Clause 350]

- The permissible investment modes are not explicitly stated within the Section itself but are now prescribed separately under Schedule XVI.
- Furthermore, under clause 350(2), the CBDT has been empowered to specify additional investment or deposit modes by notification, apart from those already listed in Schedule XVI.

Specified Violation [Clause 351]

Corresponding Provision:

Section 12AB(4) and 12AB(5) of the ITA.

Specified Violation [Clause 351]

Circumstances leading to the cancellation of registration:

The registration of a NPO may be cancelled under clause 347 of the ITB if:

- (a) The PCIT/CIT identifies the occurrence of one or more specified violations;
- (b) A reference is received from the Assessing Officer under clause 270(13) for any tax year; or
- (c) The organisation is selected based on the risk management strategy formulated by the Board.

Specified Violation [Clause 351]

Definition of Specified Violation:

A “specified violation” under section 347 includes the following instances:

- (a) Application of income for purposes other than the organisation’s objects;
- (b) Engagement in commercial activities contrary to clause 345 provisions;
- (c) Utilisation of income for private religious purposes that do not benefit the public;
- (d) Allocation of funds for the benefit of a specific religious community or caste, except for Scheduled Castes, Scheduled Tribes, backward classes, women and children;
- (e) Conduct of activities that are not genuine or not in compliance with the conditions of registration;
- (f) Non-compliance with clause 332(7), where a legally binding order confirming such non-compliance has been issued and attained finality;
- (g) Submission of false or incorrect information in the registration application under clause 332(1).

Specified Violation [Clause 351]

The procedural framework for cancellation under clause 351 involves:

Inquiry & documentation: The PCIT/CIT may request documents or conduct an inquiry to ascertain the occurrence of a specified violation.

Issuance of order: Based on findings, the PCIT/CIT may:

- Cancel the registration, after affording a reasonable opportunity of being heard, for the tax year in which the violation occurred and all subsequent tax years;
- Decline to cancel the registration if not satisfied that a violation has occurred.

Communication of decision: The order is forwarded to both the Assessing Officer and the affected non-profit organisation.

Specified Violation [Clause 351]

Time-limit for issuance of order:

The cancellation order, or an order refusing to cancel the registration, must be issued within six months from the end of the quarter in which the first notice was issued by the PCIT/CIT.

Tax on Accreted Income [Clause 352]

Corresponding Provision:

Chapter XII-EB, titled “Special Provisions Relating to Tax on Accreted Income of Certain Trusts & Institutions” of the ITA. This chapter encompasses sections 115TD, 115TE, and 115TF, which governed the taxation of “accreted income” for entities registered under section 12AA/12AB or approved under section 10(23C)(iv), (v), (vi), or (via) of the Act in specified circumstances.

Tax on Accreted Income [Clause 352]

These provisions are proposed to be consolidated into a single provision under Clause 352.

There are no changes to the circumstances under which accreted tax is levied, the method of computing accreted income, the time limit for payment, or the applicable tax rate. However, the specified situations are now presented in a tabular format for clarity.

Other Violation [Clause 353]

Corresponding Provision:

Section 13(10) and 13(11) of the ITA.

Other Violation [Clause 353]

Clause 353 applies to registered NPOs that fail to comply with specific statutory obligations, including:

- (a) Maintaining books of account (Clause 347)
- (b) Conducting audits (Clause 348)
- (c) Furnishing income tax returns (Clause 349)
- (d) Engaging in commercial activities in violation of clause 346)

If an NPO breaches any of the above requirements, its regular income for the tax year, subject to expenditures specified in clause 353(3), becomes taxable regular income under clause 334 of ITB.

Other Violation [Clause 353]

Computation of allowable expenditure:

The law allows deduction of expenditures while computing taxable income, but subject to strict conditions:

- Capital expenditure is disallowed.
- The expenditure must be incurred in India.
- The expenditure must directly relate to the objects of the NPO.
- No deduction for expenditure from corpus funds (i.e., accumulated funds of previous years).
- No deduction for expenditure out of loan or borrowing.
- Depreciation is disallowed if the asset acquisition was claimed as an application of income in any tax year.
- No deduction for contributions or donations made by the NPO to other entities.
- Payments violating clause 36(4), (5), (6) and (7) shall not be deductible [Cash Expenses in excess of prescribed limit].
- Tax must be deducted at source (TDS) on payments, as per clause 35(b)(i).
- No other deductions, set-offs, or allowances shall be permitted.

Approval for deduction under Clause 133(1)(b)(ii) [Clause 354]

Corresponding Provision:

Section 80G(5) of ITA

Approval for deduction under Clause 133(1)(b)(ii) [Clause 354]

- Section 80G of the ITA governs deductions for donations made to specified funds and institutions, including those covered under Section 80G(2)(a)(iv). Under Section 80G(5), these deductions applied only to donations made to institutions or funds established in India for charitable purposes, provided they met the specified conditions.
- The deduction provisions of Section 80G have now been replaced by Clause 133 of the ITB, while the approval process under Section 80G(5) has been shifted to Clause 354 of the ITB.
- Other aspects, such as the time limits for application, conditions, and processes, remain largely unchanged under the new provision.

Interpretation [Clause 355]

Corresponding Provision:

Clause 355 of ITB provides definitions for various terms used within this Part. There is no specific section in the ITA compiling the meanings of these terms; instead, they are defined within the respective provisions.

Interpretation [Clause 355]

The following definitions are given under the clause:

- Anonymous Donation
- Approval
- Cancellation
- Donation
- Commercial Activity
- Registration
- Registered NPO

Interpretation [Clause 355]

The following definitions are given under the clause:

- Related Person
- Relative
- Residual Income
- Specified Asset
- Specified Person
- Specified Provision
- Substantial Interest
- Value



Thank You!

Tarun Kumar Madaan

Date: 21 March 2025 (Friday)