

NDA Update on Income Tax Matters

Opportunity to Trusts or Institutions which has furnished audit report in wrong form for A.Y. 2023-24

In order to claim exemption of income, trust, institution etc are required to get its accounts audited and furnish the audit report in the prescribed Form before the specified date.

The relevant Rules for the form of audit report were amended vide Notification No. 7 of 2023 dated 21st February, 2023 effective from A.Y. 2023-24. The report of audit of the accounts of a trust or institution, from A. Y. 2023-24 was required to be furnished in –

(a) Form No.10B where-

- the total income of trust or institution, exceeds rupees five crores during the previous year; or
- such trust or institution has received any foreign contribution during the previous year; or
- such trust or institution has applied any part of its income outside India during the previous year;

(b) Form No. 10BB in other cases.

The due date for furnishing such audit reports for the A.Y. 2023-24 was 31st October, 2023. Prior to the aforesaid amendment of the Rules, the earlier prescribed form for audit report was Form No. 10BB for trust or institution registered under Section 10(23C) and Form No10B for trust or institution registered under Section 12AA or Section 12AB.

Some trusts or institutions have furnished the audit report before the specified date of 31st October 2023 but in the wrong form i.e. Form 10B in place of Form 10BB or vice versa.

CBDT vide Order under Section 119 (Circular No 2/2024) has allowed the trusts or institutions which has furnished the report in time but in wrong form, to furnish the report in applicable form for A.Y. 2023-24 on or before 31.03.2024. The exemption will not be denied if furnished by 31.03.2024.

<https://incometaxindia.gov.in/communications/circular/circular-no-2-2024.pdf>

NDA Update on Income Tax Matters

Clarification on donations made by a trust or institution to another trust or institution

Certain amendments were made by Finance Act 2023 in Section 10(23C) and Section 11 thereby providing that eligible donations made by a trust or institution to another trust or institution shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations.

Representations have been received by CBDT raising the concern that whether the balance 15% of donation to other trust / institution would be taxable or is eligible for 15% accumulation since the funds would not be available having been already disbursed.

CBDT vide a circular dated 06.03.2024 (Circular 3/ 2024) has clarified when a trust / institution donates Rs. 100 to another trust / institution in either regime, it will be considered to have applied 85% (Rs. 85) for the purpose of charitable or religious activity. It is further clarified that balance 15% (Rs. 15) of such donations by the donor trust / institution shall not be taxable and 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 under Section 10(23C) or Section 11.

The illustration is provided by CBDT in the circular.

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