

Taxation of Trust under Income Tax Act

By

CMA Niranjan Swain, B.Com,CS,FCMA,LLB

Advocate & Tax Consultant

Reached at nswain2008@ymail.com

Scheme of Taxation & Computation of Income

□ **Executive Summary:**

- a. The exemptions available under section 11 are subject to the conditions specified in sections 11, 12, 12A, 12AB, and 13 of the Act.
 - b. Initially, one needs to compute income from trust property which shall be eligible for exemption and then the amount applied for charitable / religious purposes should be determined and can be claimed as exemption.
 - c. **Income subject to application:**
 - i. Income from trust property shall be computed in a commercial sense and not as per normal computation of income [Cir. No. 5-P(LXX-6) dated 19th June, 1968.
 - ii. Exempt income [other than section 10(7) – foreign allowance, 10(23C)- income of educational institute and 10(46)- income of notified body/authority / trust] will not be excluded but shall form part of Income subject to Application.
-

Scheme of Taxation & Computation of Income

Income subject to application:

- iii. Fund raising expenses or expenses incurred to earn income should be deducted while computing the income [charge against income]
- iv. Depreciation will not be considered as charge against income w.e.f. 01/04/2015 (Assessment Year 2015-16) if the asset has been claimed as application.
- v. Exempt portion of Anonymous donation shall form part of income subject to application.

Application:

- i. Application – both revenue & capital in nature are considered as application
- ii. If the expenses are incurred out of loan, then there is no application out of income in the year of expenses being incurred but in such cases repayment of loan shall be considered as an application in the year in which loan is repaid. This proposition is being affirmed by the amendment by the Finance Act, 2021.

Scheme of Taxation & Computation of Income

□ **Executive Summary:**

d.Application:

- i. Inter-charity donation (other than towards corpus) shall be considered as application subject to restriction u/s 11(2).
 - ii. The Finance Act, 2021 provides that application out of corpus shall not be considered as an application for charitable or religious purposes. However, when it is invested or deposited back, into one or more of the forms or modes specified in Section 11(5) maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as an application in the previous year in which it is deposited back to the corpus to the extent of such deposit or investment.
 - iii. The Finance Act, 2021 provides that the set-off of past deficit against the current year's income will not be permissible for computing 85% application.
-

Scheme of Taxation & Computation of Income

e. Disallowances:

- i. The amount of application shall be reduced by 30% of the corresponding amount applied for because of non-compliance of TDS provisions or by the full amount if the corresponding payment in excess of INR 10,000 is made in cash (Section 40A(3).
 - ii. **Inter-charity donation** – Corpus grant to other trust registered under section 12AA shall not be considered as an application of income [w.e.f. A.Y. 2018-19]. Finance Act, 2020 provided that even the corpus donation given by a Section 12AA registered institution to section 10(23C) – [INCOME OF HOSPITAL] approved institution will not be treated as an application of income.
-

Scheme of Taxation & Computation of Income

- f. If total application falls short of 85%, option for deemed application or accumulation for five years can be exercised.
 - g. The conditions as provided in section 12A(1) – [Registration] are required to be fulfilled in order to be eligible for applicability of the provisions of sections 11 and 12.
 - h. Section 13 of the Act specifies the circumstances under which the benefits of exemption under sections 11 and 12 would not be available to an organisation. Section 13 has been enacted as an exception to section 11 and thereby, the benefits which are otherwise available under sections 11 and 12, will not be available under the circumstances stated in section 13.
-

Overview of the Conditions and Scheme of Taxation

1. The exemptions available under section 11 are subject to the conditions specified in sections 11, 12, 12A, 12AB and 13 of the Act.
 2. The organisation must be solely existing for the public benefit. Such organisation can be either religious or charitable in nature.
 3. Section 11 provides that the Income from trust property (subject to provision of sections 60 to 63 of the Income-tax Act, 1961) shall be subject to exemption as provided in clauses (a), (b), (c) and (d) of sub-section (1) of section 11. Hence, initially, one needs to compute income of an organisation which is subject to exemption.
-

Overview of the Conditions and Scheme of Taxation

4. Section 11(l)(a) begins with the words *income derived from property held under trust wholly for charitable or religious purposes...*. The word 'wholly' refers to the object and not to the property held under trust. The trust should be wholly for charitable or religious purposes, but it is not necessary that the property should be wholly with the trust.

5. It may be noted that section 11(1)(a) uses the words "income derived from property held under trust **wholly** for charitable or religious purposes...". This section does not distinguish between a private and public religious trust, therefore, as far as section 11 is concerned there is no difference between a public and private religious trust.

Overview of the Conditions and Scheme of Taxation

6. Income shall be exempt to the extent applied for wholly for charitable or religious purposes in India and this exemption is also available to the income accumulated up to 15% of the income. [Section 11(1)(a)]

7. If the organisation was created prior to 1-4-1962, then the exemption will be available even if it is partly for religious or charitable purposes. The income to the extent applied for religious or charitable purposes is exempt under section 11(1)(b) and the same condition of 85% application would apply.

Overview of the Conditions and Scheme of Taxation

8. Under section 11(1)(c) income of charitable or religious organisations is required to be applied in India only, unless the organisation is specifically permitted to work outside India or works for notified purposes which tend to promote international welfare in which India is interested.

Organizations created before 1-4-1952 can apply income outside India also.

Organisations created on or after 1-4-1952 can apply income outside India for charitable purposes which tend to promote international welfare in which India is interested.

These organisations will get exemption under section 11 only if the CBDT has permitted or notified such activity for charitable purposes outside India.

Overview of the Conditions and Scheme of Taxation

9. Under section 11(l)(d) income in the form of voluntary contribution with a specific direction that they shall form part of corpus shall be exempt.

The Finance Act, 2021 provides that the corpus donation (specific purpose as per doner) shall be exempt only if invested or deposited in one or more of the forms or modes specified in Section 11(5) maintained specifically for such corpus.

Thus, the corpus donation received by an organization will not be treated as exempt income unless it is invested or deposited in one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus.

Overview of the Conditions and Scheme of Taxation

10. To cover the shortfall in application of 85%, Clause 2 of *Explanation* to section 11(1) provides for the option to apply the shortfall in application in subsequent year or in the year of receipt (subject to condition) and section 11(2) provides for accumulation of any part of income for specific purpose for five years, subject to certain conditions.

Overview of the Conditions and Scheme of Taxation

11. Under section 11(1B) and section 11(3), income shall be subjected to tax if the conditions for option or accumulation as mentioned in previous para are not complied with.

Explanation 2 to section 11(1) provides for disallowances of application amount regarding corpus grant, violation of TDS provisions and payment exceeding INR 10,000 otherwise than by account payee cheque.

12. Capital gains are also required to be applied for charitable and religious purposes and therefore, it will amount to depletion of the corpus of the organisation.

In order to overcome this disadvantage, the Income-tax Act has brought section 11(1A). Section 11(1A) provides for exemption of capital gain if these are utilised for acquiring another capital asset.

Overview of the Conditions and Scheme of Taxation

13. Section 11(4) provides that “property held under trust” shall include a business undertaking so held and section 11(4A) provides exemption of income from incidental business activities on specified conditions.

14. Section 11(5) together with Rule 17C provides for the modes where investment by a trust can be made.

15. Section 11(6) of the Income Tax Act provides that depreciation shall not be allowed while computing income subject to application against those assets which have been treated as application in earlier years.

16. Section 11(7) provides that exemption under section 10 shall not be available except income referred to in section 10(23C), 10(46) and section 10(1).

Overview of the Conditions and Scheme of Taxation

17. The proviso to section 11(7) further provides that an organisation registered under section 12AB cannot simultaneously have approval under section 10(23C) or notified u/s 10(46).

By amendment in Section 11, it is clarified that the registration u/s 12AA/12AB shall be inoperative from the date on which the trust or institution has been approved under clause (23C) of section 10 or is notified under clause (46) of the Income-tax Act.

Overview of the Conditions and Scheme of Taxation

18. Section 12(1) provides that any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes shall, for the purposes of section 11, be deemed to be income derived from property held under trust wholly for charitable or religious purposes.

However, contribution received with a specific direction that they shall form part of the corpus of the trust or institution shall not be included in income for the purposes of section 11.

In other words, voluntary contributions other than those towards corpus specific direction are deemed as income.

Overview of the Conditions and Scheme of Taxation

19. Section 12A(1) provides conditions for applicability of sections 11 and 12.

This sub-section provides that provisions of sections 11 and 12 shall not be applicable unless the conditions as specified in sub-section (1) of section 12A are fulfilled.

Conditions include registration under section 12AA/12AB, obtaining and furnishing the return, submission of return etc.

20. Proviso to sub-section (2) of section 12A provides for the benefit of registration even for earlier years once the registration is granted.

21. Section 12AB provides the process of registration as well as situation and process of cancellation of registration.

Overview of the Conditions and Scheme of Taxation

22. Section 13 of the Act specifies the circumstances under which the benefits under sections 11 and 12 would not be available to an organisation.

Section 13 has been enacted as an exception to section 11, and therefore, the benefits which are otherwise available under sections 11 and 12, will not be available under the circumstances stated in section 13.

Computation of Income Available for Application

□ As a first step, a trust should compute income from trust property which shall be eligible for exemption and then amount applied for charitable/ religious purposes should be determined and can be claimed as exemption.

1. Computation of Income available for application/exemption

As per Circular No. 5-P(LXX-6), dated June 19, 1968, the income from trust property shall be computed in commercial sense and not as per normal computation of income.

Exempt income [other than section 10(7), 10(23C) and 10(46)] will not be excluded but shall form part of income subject to application.

Computation of Income Available for Application

□ As a first step, a trust should compute income from trust property which shall be eligible for exemption and then amount applied for charitable/ religious purposes should be determined and can be claimed as exemption.

1. Computation of Income available for application/exemption
 2. Fund raising expenses or expenses incurred to earn income should be deducted while computing the income as a charge against income.
 3. Depreciation will not be considered as charge against income w.e.f. 1-4- 2015 (assessment year 2015-16) if the asset has been claimed as application.
 4. Exempt portion of anonymous donation shall form part of income subject to application.
-

Computation of Income Available for Application

2.Application of Income

The amount of application for charitable/religious purpose shall include –

- *Revenue & capital nature of application:* It is permissible to claim both revenue & capital nature of application provided it is used for charitable/religious purposes.
 - *Repayment of Loan:* If the expenses are incurred out of loan, then there is no application out of income in the year of expenses being incurred but in such cases repayment of loan shall be considered as application in the year in which loan is repaid.
- ❑ The Finance Act, 2021 provides that an application from loans and borrowings shall not be considered as an application for charitable or religious purposes.
 - ❑ However, when such loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as an application in the previous year in which it is repaid and to the extent, it is repaid.

Computation of Income Available for Application

- *Inter charity donation other than towards corpus.* Inter charity donation other than towards corpus fund shall be considered as application for the purpose of section 11 of the Income-tax Act, 1961.
 - However, it is to be ensured that inter charity donation are used on similar objects.
 - Hence, inter charity donation can be for specified purposes as per the objects of the donor trust and to the donee trust having similar objects.
 - In case unrestricted or voluntary contribution are given as inter charity donation, then it is desirable that the objects of the donee organisation are also dominantly similar with the donor organisation.
-

Computation of Income Available for Application

- *Administrative expenses:*
 - Administrative expenses are normally related to both earning of income as well as for application of income and therefore, in certain cases, the tax department has taken the view that administrative expenses should be deducted while computing the income instead of treating these expenses as application of income for charitable & religious purpose.
 - However, all the administrative expenses should be allowed as application of income so long as these expenses are not directly attributable to earning income.
-

Computation of Income Available for Application

- ***Activity outside India:*** Organisations created before 1-4-1952 can apply income outside India also. Organisations created on or after 1-4-1952 can apply income outside India for charitable purposes which tend to promote international welfare in which India is interested.
 - These organisations will not get exemption unless CBDT specifically permits to work outside India or notifies the purposes which tend to promote international welfare in which India is interested.
-

Computation of Income Available for Application

- *Specific disallowances of application amount:*
 - The amount of application shall be reduced by 30% of the corresponding amount applied for because of non-compliance of TDS provisions or by the full amount if the corresponding payment in excess of INR 10,000 is made in cash.
 - **Inter-charity donation** – Corpus grant to other trust registered under section 12AA shall not to be considered as application [w.e.f. A.Y. 2018-19]. Hence, any contribution by a charitable or religious trust registered under section 12AA to any other trust registered under section 12AA, with a specific direction that it shall form part of corpus of recipient trust, shall not be treated as application of income for the donor trust.
-

Computation of Income Available for Application

- ❑ Finance Act, 2020 also provides that any corpus donation made by trust or institution registered under section 12AA to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or subclause (vi) or sub-clause (via) of section 10(23C) shall not be treated as an application of income.
 - ❑ Hence, in view of this amendment by Finance Act, 2020, corpus donation given by a section 12AA registered institution to section 10(23C) approved institution will not be treated as an application of income.
-

Computation of Income Available for Application

- ❑ Once the income subject to application and the amount applied towards charitable/religious purposes is summarised and calculated, then it needs to be verified whether total application is at least 85% of its income.
 - ❑ The organisation can accumulate 15% of its income indefinitely without any condition.
 - ❑ If the organisation is unable to apply at least 85% of its income as aforesaid where the income is accrued but not received or due to any other reason, then the organisation can exercise the option of applying such income in the immediately succeeding year or the year in which the income is received. [*Explanation 2* to section 11(1)].
-

Computation of Income Available for Application

- ❑ If the organisation is unable to apply at least 85% of its income then it can also opt for accumulating the portion of income which could not be applied on a specific declared purpose.
 - ❑ Such accumulated income should be applied within the next 5 years, failing which the income will become taxable.
 - ❑ Once the income is accumulated, it should not be used for purposes other than for which it was accumulated.
 - ❑ Further, inter-charity donations are not possible out of accumulated income.
[Section 11(2)]
-

Income without the Benefit of Section 11 and Directly Subject to Tax

- It may be noted that income which is not subject to exemption benefit is subject to tax. Following income falls under this category:
 - *Section 13(7) provides that Anonymous donation in excess of the exemption limit:* Exemptions available under section 11 are not available to taxable portion of anonymous donations and they are to be taxed as per the provisions of section 115BBC.
 - "anonymous donation" means any voluntary contribution referred to in section 2(24)(iia) of the income tax act, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.
-

Income without the Benefit of Section 11 and Directly Subject to Tax

❑ It may be noted that income which is not subject to exemption benefit is subject to tax.

❑ Following income falls under this category:

- . *Income u/s 11(1B) of the Income-tax Act, 1961*: According to section 11(1B) of the Act, where an option has been exercised to spend in subsequent year or in the year of receipt and where the income is not so applied in the year of receipt or in the year immediately following the year of receipt, then the amount not so applied shall be treated as income in the hands of the organisation in the year following the previous year in which the income is received and shall be charged to tax without the benefit of section 11.
-

Income without the Benefit of Section 11 and Directly Subject to Tax

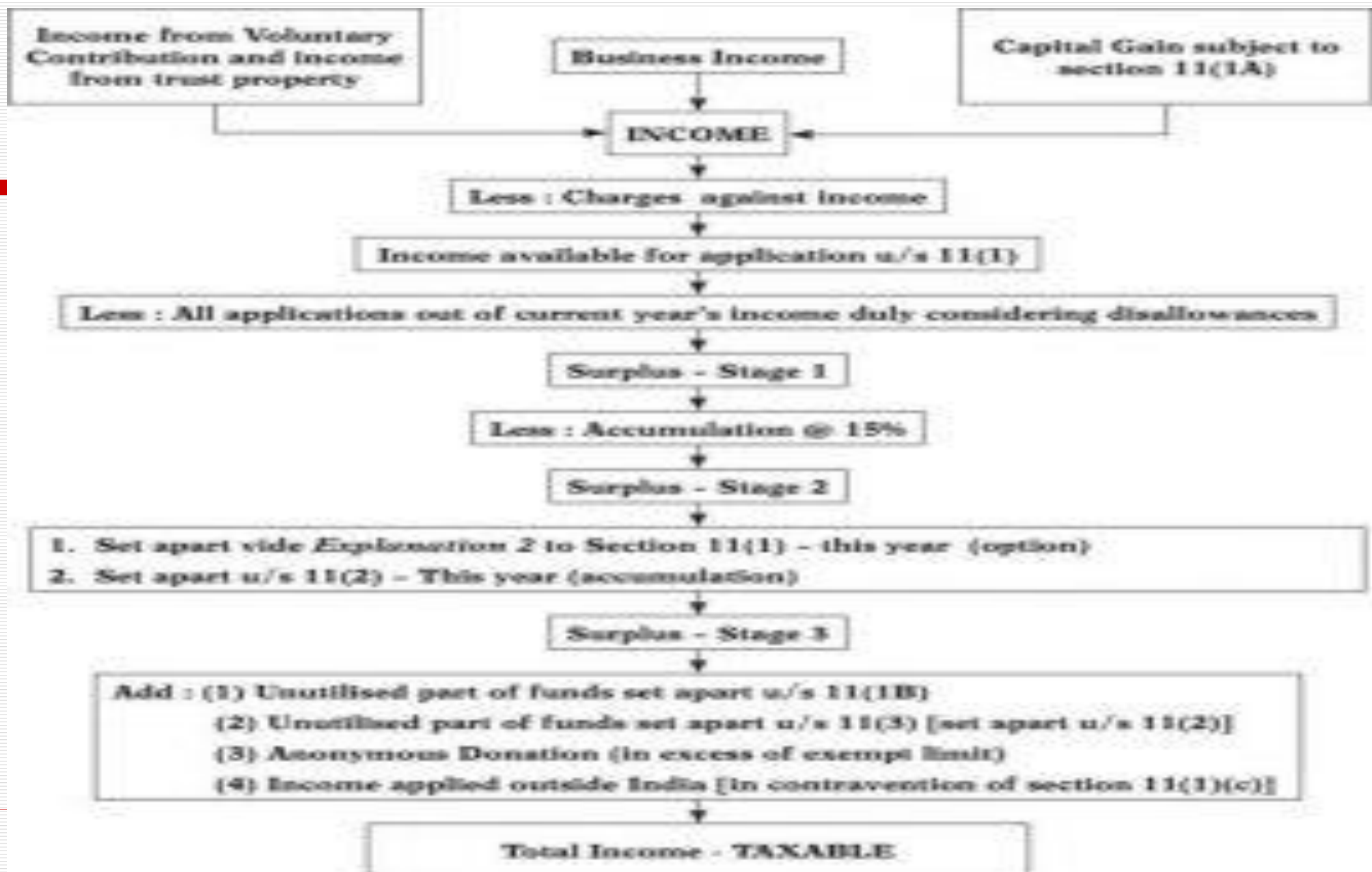
- *Income under section 11(3) of the Income-tax Act, 1961:* The benefit of exemption, allowed to an assessee-trust for accumulation u/s 11(2) of its income in excess of 15% is subject to certain conditions and will be forfeited if such conditions are not complied with by the assessee and the amount of exemption allowed will be deemed to be the income of the assessee-trust.
 - *Value of services (being medical & educational) to a specified person:* Section 12(2) provides for the taxability of value of any Medical or Educational Services provided to Interested Persons by a Charitable Trust or Institution running a Hospital or Medical or Educational Institution.
-

Income without the Benefit of Section 11 and Directly Subject to Tax

- *Medical or educational services to interested persons under section 12(1):*
 - If a charitable or religious trust is running a hospital or a medical institution, or an educational institution and it provides medical or educational services to interested persons (that is, the author of the trust, trustee, substantial contributor contributing more than ₹ 50,000 during the year, or any relative of such persons), the value of medical/educational services is deemed to be the income of the trust or institution, derived from property held under trust.
 - The value of such services is chargeable to tax during the previous year in which such services are rendered. The exemption of section 11 does not apply to the value of such services.
-

Income without the Benefit of Section 11 and Directly Subject to Tax

- *Amount of income applied outside India in contravention of section 11(1)(c):*
 - ❖ It may be noted that if an organisation incurs expenditure outside India in contravention of section 11(1)(c), then the entire exemption will not be lost. Income to the extent not applied in India will not be eligible for exemption under section 11
-



■

Finance Act 2023 – ITR- 7 Related Changes

Other Assesseees

Status of Assessee	ITR 4	ITR 5	ITR 6	ITR 7
Firm (excluding LLPs) opting for presumptive taxation scheme of section 44AD, 44ADA or 44AE	✓			
Firm (including LLPs)		✓		
Association of Persons (AOPs)		✓		
Body of Individuals (BOI)		✓		
Local Authority		✓		
Artificial Juridical Person		✓		
Companies other than companies claiming exemption under Section 11			✓	
Persons including companies required to furnish return under: <ul style="list-style-type: none"> ■ Section 139(4A); ■ Section 139(4B); ■ Section 139(4C); ■ Section 139(4D); 				✓
Business Trust		✓		
Investment Fund as referred to in Section 115UB		✓		

New Schedule for income from transfer of virtual digital assets[ITR 2, 3, 5, 6 and 7]

❑ Virtual Digital Asset (VDA) covers crypto assets, Non-fungible tokens (NFTs), and any other digital asset, and it does not cover Indian currency, CBDCs, Foreign currency, and notified digital assets.

❑ The Finance Act, 2022 introduced a new 'flat rate' scheme for the taxation of income arising from the transfer of Virtual Digital Assets ('VDA') with effect from the assessment year 2023-24.

❑ Every transfer of virtual digital assets on or after 01-04-2022 shall be covered under this scheme. Further, Section 194S requires the deduction of tax from the payment of consideration on the transfer of VDA.

❑ To bring the necessary changes to the new ITR Form, Schedule VDA has been added.

❑ The Schedule asks for details like the date of acquisition, date of transfer, head under which income is to be taxed, cost of acquisition in case of gift and consideration received.

❑ Taxable income will be recorded in Schedule CG (Capital Gains) or Schedule BP (Business Income) based upon the classification of income under the head of capital gains or business income.

Insertion of reference of Section 153C for the return filed in response to a notice [ITR 1 to 7]

□ Section 153C provides for the assessment of income of any other person where AO is satisfied that any valuable article seized (or requisitioned) belongs to, any books of account or documents seized (or requisitioned) pertain to or any information contained therein relates to such other person (not the one in whose case the search or requisition proceedings are initiated).

□ The Finance Act, 2021, introduced a sunset clause with effect from April 1, 2021, to provide that the above assessment process will not apply where the search or requisition proceedings are initiated on or after April 1, 2021.

□ In cases the search process was initiated before 01-04-2021, it could be possible that the assessment of other person is yet to be made under Section 153C, and the person will be required to file the Income-tax return in response to notice under Section 153C. Hence, the new ITR Forms restore the check-boxes of '153C' in the section of filing status of return income in response to the notice. Earlier, this check-box was removed in the ITR Forms for AY 2022-23.

Transfer of TCS credit to another person

[ITR 2,3, 5, 6 and 7]

□ All citizens who are domiciled in Goa and to whom the Portuguese Civil Code of 1860 apply are governed by the system of Community of Property. Under this system, a person is entitled to inherit 50% of the property of his spouse, and the income there from is also liable to be shared equally among the spouse. Under Section 5A, the statute has recognised the system of community of property for the purpose of assessment in respect of all income other than salary.

□ In this situation, if an income added to the common pool has been subjected to TCS, the assessee faces difficulties in proving their claim for TCS credit. In other similar situations, a person is entitled to claim the credit for tax deducted in the name of another person, i.e., inheritance, etc.

□ Currently, Income-tax Dept. matches the TCS disclosed in ITR with the amount of TCS as shown in Form 26AS and in case of a mismatch, the Dept. asks the assessee to reconcile the mismatch. Therefore, in the situations mentioned above, the taxpayers were facing difficulties in claiming the TCS credit.

□ To overcome this problem, the ITR forms introduce new columns in the TCS Schedule, allowing CPC. to correlate the PAN, amount of income, and TCS thereon as disclosed by both parties in their respective return of income. It would be more convenient for the assessee to claim the credit of tax deducted in the name of another person.

Computation of income on the applicability of Twenty-Second Proviso to Section 10(23C) or Section 13(10) -[ITR 7]

❑ The new ITR-7 form seeks the details of whether the provisions of the *twenty-second proviso* to Section 10(23C) or Section 13(10) is applicable.

❑ The Finance Act 2022 inserted special provisions for the computation of income in the following cases:

❖ (a) the institution has not obtained the audit report;

❖ (b) the books of account and other documents have not been kept in the prescribed form/ manner/place; or

❖ (c) the institution has not furnished the return of income within the time allowed under Section 139(4A).

❑ The consequential changes have also been made in Part B-TI in the ITR form, where the income statement is shown. A separate table in Part B3 is given if total income is chargeable to tax under the *twenty-second proviso* to Section 10(23C) or Section 13(10).

❑ In such cases, the income chargeable to tax due to withdrawal of exemption shall be computed after allowing a deduction for expenditure (other than capital expenditure) incurred in India for the objects of the institution. The deduction is allowable subject to the satisfaction of the following conditions:

Computation of income on the applicability of Twenty-Second Proviso to Section 10(23C) or Section 13(10) -[ITR 7]

❑ In such cases, the income chargeable to tax due to withdrawal of exemption shall be computed after allowing a deduction for expenditure (other than capital expenditure) incurred in India for the objects of the institution. The deduction is allowable subject to the satisfaction of the following conditions:

- ❖ (a) The expenditure is not from the amount of corpus donations credited in the books of account up to the end of the financial year immediately preceding the relevant previous year;
- ❖ (b) The expenditure is not from any loan or borrowing;
- ❖ (c) Depreciation shall not be allowed in respect of an asset whose full cost has been claimed as an application of income;
- ❖ (d) The expenditure is not in the form of a contribution or donation to any person.

❑ The income shall be computed without deduction of the following expenditures:

- ❖ (a) No deduction shall be allowed for the capital expenditure;
- ❖ (b) Disallowance shall be made under Section 40(a)(ia) for the default made in deduction of tax;
- ❖ (c) Disallowance shall be made Section 40A(3)/40A(3A) for the payment made in cash;
- ❖ (d) No deduction shall be allowed for the expenditure not incurred in India.

❑ It should be noted that the disallowance made of the above expenditure or allowance shall not be allowed as a deduction to the assessee under any other provision. Further, if any loss arises due to such expenditure, no set-off shall be allowed for such

losses.

Details of Author/ Founder/ Trustee/ Manager -[ITR 7]

☐ The new ITR-7 form seeks the details of the particulars regarding the Author/Founder/Trustee/Manager of the trust or institution at any time during the previous year. So if a person held a position at any time during the previous year, his details would be furnished. Earlier, these details were required to be provided as on the date of application.

Disclosure of accumulated income taxed in earlier years -[ITR 7]

- ❑ A new Schedule IA has been inserted that requires the details to be furnished for the accumulated income taxed in earlier assessment years under Section 11(3). The exemption is allowed to a trust for the income accumulated in excess of 15%, subject to the fulfilment of certain conditions. Section 11(3) provides for the circumstances when the exemption allowed to a trust for the accumulated income shall be withdrawn if specified conditions are not complied with by the assessee. In this new Schedule IA, the details need to be provided for the year of accumulation and the assessment year in which such accumulated amount was taxed.
- ❑ Another new Schedule DA has been inserted that requires the details of accumulated income taxed in earlier assessment years under Section 11(1B). When a charitable institution cannot utilise 85% of its income for charitable or religious purposes in India, it shall be deemed to be applied for such purposes upon the filing of Form 9A.
- ❑ When such income is not applied to charitable or religious purposes in India during the specified period, then it shall be deemed as the income of the previous year immediately following the previous year in which it was received or derived, and it shall be taxable under Section 115BBI. In this new Schedule DA, the details have to be furnished of the year of deemed application and the assessment year in which such amount was taxed.

■

❑ Details of investments made in specified modes - [ITR 7]

❖ Earlier, the details of investments made under Section 11(5) were to be provided in 'Schedule J'. Now, the form seeks only the details of corpus investment/deposits made under Section 11(5).

❑ Reporting of investment in related concerns by Section 10(23C) approved institutions - [ITR 7]

❖ The Finance Act 2022 provided that if the institutions approved under Section 10(23C) apply the income (or part of income or property) of any trust or institution directly or indirectly for the benefit of any person referred to in Section 13(3), such income or property shall be deemed to be the income of fund or institution of the previous year in which it is so applied.

❖ The new ITR form seeks the details of investment held at any time during the previous year in concerns in which persons referred to in section 13(3), and *21st Proviso* of Section 10(23C) has a substantial interest.

Details of investments to be shown in the Balance Sheet -[ITR 7]

☐ The breakup of the total application of funds shown in the balance sheet shall be further classified into the investments made in the modes specified under Section 11(5) and the investment made in modes other than specified under Section 11(5).

Reconciliation of corpus -[ITR 7]

☐ A new Schedule R has been inserted wherein the reconciliation of the corpus of Schedule J and the Balance sheet is to be shown. The reasons for the difference in the closing balance of the corpus shown in Schedule J and the closing balance as per the balance sheet are to be given.

☐ The reasons for the difference have to be given as under:

(a) Purchase of fixed Assets (b) Depreciation (c) Any other reasons (Specify the reason)

Disclosure of Anonymous Donations -[ITR 7]

■

□ The details of voluntary contributions are required to be reported in Schedule VC. These voluntary contributions are further classified as domestic and foreign contributions, including anonymous donations. Now, anonymous donations taxable under Section 115BBC are to be shown separately in Schedule VC.

Disclosure of the amount applied for the objects -[ITR 7]

□ A new Schedule A has been inserted to provide for the amount applied to stated objects of the trust/institution during the previous year from all sources. Earlier, these details were required to be reported in the Schedule ER for the revenue nature and Schedule EC for the capital nature.

□ Now, both these details are to be reported in the new Schedule A, and the amount is to be classified into the revenue and capital nature. The Schedule ER and EC have been deleted in the new ITR form. The disclosure of the application of the amount towards the establishment and administration costs is not required in the new Schedule A.

Reporting of accreted income by Section 10(23C) approved institutions [ITR 7]

□ The Finance Act 2022 extended the provisions to pay accreted tax to funds or institutions approved under Section 10(23C). Earlier, these provisions were only applicable to the trust or institution registered under Section 12AA/12AB. Therefore, Schedule 115TD must also be filled in by the institutions having approval under Section 10(23C).

Disclosure of income taxable under Section 115BBI -[ITR 7]

□ The Finance Act 2022 inserted a new Section 115BBI which provides that where the total income of any specified charitable institution includes any specified income, then the institution shall pay tax at the rate of 30% *plus* surcharge and cess on the aggregate of such specified income.

□ A new Schedule 115BBI has been inserted to report the specified income of the institutions taxable at a special rate under Section 115BBI.

Details of recognition by the election commission of India - [ITR 7]

- Schedule LA has to be filled in by the Political Parties. Earlier, the political parties must provide registration details under Section 29A of the Representation of People Act, 1951. Now, they also need to disclose whether that party is recognised by the Election Commission of India and the date of such recognition

Q&A

