

F. No.370142/5/2024-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

Dated 06th March, 2024

Sub: Circular under section 119 of the Income-tax Act, 1961 - reg.

Income of any fund or institution or trust 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 sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Income-tax Act, 1961 (the Act) (hereinafter referred to as the first regime) or any trust or institution registered u/s 12AA or 12AB of the Act (hereinafter referred to as the second regime) is exempt, subject to the fulfilment of certain conditions provided for the two regimes in the Act. These conditions *inter-alia* include the following for the entities (hereinafter referred to as trust / institution in the two regimes):-

- (a) at least 85% of income of the trust / institution should be applied during the year for the charitable or religious purposes;
- (b) Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations to the trusts with similar objectives; and
- (c) If donated to other trust / institution, the donation should not be towards corpus to ensure that the donations are applied by the donee trust / institution for charitable or religious purposes.

2. In order to ensure intended application towards charitable or religious purposes, Finance Act, 2023 has provided that eligible donations made by a trust / institution shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. Accordingly, Finance Act, 2023 has made the following amendments:-

- (a) inserted clause (iii) in *Explanation 2* to third proviso of clause (23C) of section 10 of the Act;
- (b) inserted clause (iii) in *Explanation 4* to sub-section (1) of section 11 of the Act.

These amendments read as under:-

(a) clause (iii) in Explanation 2 to third proviso of clause (23C) of section 10

“any amount credited or paid out of the income of 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 sub-clause (vi) or sub-clause (via), other than the amount referred to in the twelfth proviso, to any other 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 sub-clause (vi) or sub-clause (via), or trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.”

(b) clause (iii) in Explanation 4 to sub-section (1) of section 11

any amount credited or paid, other than the amount referred to in Explanation 2, 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 sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, as the case may be, or other trust or institution registered under section 12AB, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid.

3. Representations have been received 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.

4. The matter has been examined with reference to the issues raised in paragraph 3 and it is reiterated that eligible donations made by a trust / institution to another trust / institution under any of the two regimes referred to in para 2 shall be treated as application for charitable or religious purposes only to the extent of 85% of such donations. It means that when a trust / institution in either regime 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 clarified that 15% (Rs. 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 under the first or second regime.

This is illustrated by following example where Trust1, Trust2 and Trust3 are trusts or institutions under any of the two regimes. Further, Trust1 is making eligible donation to Trust2 and Trust2 is further making eligible donation to Trust3.

Sl. No.	Particulars	Trust1		Trust2		Trust3	
1.	Income (A)	300		100		100	
2.	Income which is required to be applied (B = 85% of A)		255		85		85
3.	Application of income						
4.	Donation to other trusts under the first or 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)		30		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	

(Sourabh Jain)

Under Secretary (TPL) - I, CBDT

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