

EY Tax Alert

CBDT notifies books of account and other documents to be maintained by charitable institutions

Executive summary

Tax 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 Notification No. 94/2022 dated 10 August 2022 (Notification) issued by the Central Board of Direct Taxes¹ (CBDT) which notifies a new rule² as prescribed by the enabling provisions³ of the Income Tax Law (ITL). The Finance Act 2022 had amended the enabling provisions for the charitable institutions to maintain books of account and other documents and it is one of the pre-conditions for availing exemption under the ITL. The new rule provides that charitable trust and other eligible institutions⁴ (charitable institutions) are required to maintain books of account and other documents. The documents prescribed require maintenance of record exhaustively in respect of different segments such as sources of income, application, investment or deposit of money etc. It also includes maintenance of details such as name, address, PAN⁵, Aadhar number of every donor, as also of every person in respect of whom application is made or claimed. The books of account and other documents are to be maintained at the registered office for a period of ten years from the end of the relevant tax year. It may be kept at any other place as decided by the management by way of a resolution. It may be maintained in written or electronic form. Furthermore, if the charitable institutions are subjected to reassessment for any tax year, the books of account are to be maintained till the reopened assessment is finalized.

¹ Apex body of direct tax administration in India

² Rule 17AA of the Income Tax Rules

³ Section 12A(1)(b)(i) and 10th proviso to section 10(23C)(a)

⁴ Entities which have obtained approval/registration under section 10(23C) and section 12AB

⁵ Permanent account number

Background

- The Finance Act 2022 amended the enabling provisions for the charitable institutions to maintain books of account and other documents, and it is one of the pre-conditions for availing exemption under the ITL. Prior to the amendment, there was no specific provision under the ITL for maintenance of books of account by charitable institutions.
- This amendment was over and above the obligation to get the accounts audited by Chartered Accountant and furnishing a report in a prescribed form.
- The amendment is effective from tax year 2022-23.

Notification:

The new rule prescribes the books of account required to be maintained by charitable institutions which include cash books, ledger, journal, bills issued to / issued by the charitable institutions or any other book which explains the transactions and gives a true and fair view. Same set of books of accounts are prescribed even for charitable institutions which carry on business.

Additionally, the new rule also requires charitable institutions to maintain documents for maintaining records of on certain aspects including of income, application of income and details of specified persons. Key highlights of the requirements prescribed by the new rule are:

- In relation to income of charitable Institutions for given tax year:
 - Details of donors such as name, address, PAN (if available) and Aadhar number (if available) in respect of voluntary contribution, corpus donations and contribution received for renovation or repair of places of worship / other notified places
 - Income from property held under trust along with list of such properties.
- In relation to application of Income during the given tax year:
 - Details of the amount of application, name and address of person to whom any amount is paid or credited and object of such application. This record may be maintained for application of income in India or outside India.
 - Where amount is paid or credited to other charitable institutions, name, address, PAN of such entity and object for such application.
 - Additionally, where application is out of income of any preceding year, details about whether application is out of accumulated income or from different sources and where it is out of accumulated income, year of such accumulation.
 - Details of money invested or deposited in the specified forms or mode as also other than

specified forms or modes. It also includes details about whether such investment or deposit is from relevant tax year or any preceding year.

- Records of loans and borrowings taken by charitable institution:

- Details for name, address, PAN and Aadhar number (if available) of the lender
- Amount and date of borrowing / repayment including details of application of such loan in preceding year but not claimed as application.
- Application made out of borrowed funds during the tax year or any preceding year with name and address of person to whom any amount is paid or credited out of such loan or borrowing and object for which such application is made

- Record of properties held by the charitable institutions:

- In respect of immovable properties, details of its nature, address, cost of acquisition and registration documents
- In case of transfer of such properties, the net consideration utilized in acquiring new capital asset
- In respect of movable properties, details of its nature and cost of acquisition

- Record of specified persons:

- Details such as name, address, PAN and Aadhar (if available)
- Details of transactions undertaken by charitable institutions with such specified persons such as date, amount and nature of transaction

- Record of all projects and institutions run by the charitable institutions, including details such as their name, address and objectives.

The books of account are to be maintained at the registered office or at any other place in India as decided by the management of the charitable institutions by way of a resolution (to be intimated to the tax authorities) for a period of ten years. Further they may be kept in written form or in electronic / digital form etc.

In case where reassessment proceedings are initiated for any year, the books of account are to be maintained till the reopened assessment is finalized.

Comments

The present Notification prescribing maintenance of books of account and other record is issued in pursuance of power and authority conferred by recent amendments in the ITL in relation to charitable institutions.

The prescribed mode for maintaining books of account for charitable institutions is in line with the other provisions⁶ of the ITL prescribing similar set of books of account for taxpayers in business or profession.

Many of the documents for maintaining record of details such as income, application etc. prescribed in the Notification broadly indicate the information which the charitable institutions may otherwise ordinarily maintain.

As regards documents for maintenance of the record are concerned, there is no prescribed format in which it is to be maintained. It appears that it can be maintained in any form, so long as it reflects the information desired by the notification.

Some of the documents prescribed as per the Notification may aid the charitable institutions in filing of income tax return (ITR), since recent amendments to ITR require disclosure illustratively, for movement of loans or borrowings, corpus donation, deemed application, as well as application of income within India and outside India.

⁶ Section 44A read with Rule 6F

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