

F. No.370142/4/2021-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

Dated: 3rd June, 2022

Sub: Clarification regarding Form No 10AC issued till the date of this Circular - reg.

Finance Act, 2022 has inserted sub-section (4) in section 12AB of the Income-tax Act, 1961 (the Act) allowing the Principal Commissioner or Commissioner of Income-tax to examine if there is any “specified violation” by the trust or institution registered or provisionally registered under the relevant clauses of sub-section (1) of section 12AB or sub-section (1) of section 12AA. Subsequent to examination by the Principal Commissioner or Commissioner of Income-tax, an order is required to be passed for either cancellation of the registration or refusal to cancel the registration. Similar provisions have also been introduced in clause (23C) of section 10 of the Act by substituting the fifteenth proviso of the said clause with respect to fund or institution trust or institution or any university or other educational institution or any hospital or other medical institution referred under sub-clauses (iv), (v), (vi), (via) of this clause and which have been approved or provisionally approved under the second proviso to the said clause. These amendments are effective from 1st April, 2022. In addition to the specified violations referred above, the power of cancellation has also been granted under sub-rule (5) of rule 17A and sub-rule (5) of rule 2C of the Income-tax Rules, 1962 (the Rules) to the Principal Commissioner or Commissioner authorised by the Board. This Circular only relates to cancellation of registration/approval or provisional registration/approval in the case of “specified violation”.

2. The definition of “specified violation” for the purposes of fifteenth proviso to clause (23C) of section 10 and section 12AB of the Act has been provided in the respective clause and section. The said definition, *inter-alia*, includes instances where any activity of the fund or trust or institution is not being carried out in accordance with all or any of the conditions subject to which it was approved/ provisionally approved or registered/provisionally registered.

3. It may be noted that as per the new procedure for approval/registration of charitable entities, which was notified vide Notification No 19/2021 dated 26.03.2021, the entities seeking re-registration/ approval or provisional registration/ approval (fresh) are required to file an application in Form 10A. Further, the order granting registration or provisional registration or approval or provisional approval is made in Form 10AC subject to the fulfilment of certain conditions.

4. In view of the amendments made vide Finance Act, 2022, the conditions subject to which the registration/approval or provisional registration/ provisional approval was granted to trusts and institutions need to be revised to align the same with the amendments made by Finance Act, 2022.

5. In view of the above, it is hereby clarified that,-

- (i) the conditions contained in Form No. 10AC, issued between 01.04.2021 till the date of issuance of this Circular, shall be read as if the said conditions had been substituted with the conditions as provided in the Table 1 with effect from 1st April, 2022;

Table 1

Sl. No.	Section Code	Section under which order is passed	Conditions
1	01	Clause (a) of sub-section (1) of section 12AB	As per Annexure A
2	02	Clause (c) of sub-section (1) of section 12AB	As per Annexure B
3	03 to 06	Clause (i) of second proviso to clause (23C) of section 10	As per Annexure C
4	07 to 10	Clause (iii) of second proviso to clause (23C) of section 10	As per Annexure D
5	11	Clause (i) of second proviso to sub-section (5) of section 80G	As per Annexure E
6	12	Clause (iii) of second proviso to sub-section (5) of section 80G	As per Annexure F

- (ii) where due to technical glitches, Form No. 10AC has been issued during FY 2021-2022 with the heading “Order for provisional registration” or “Order for provisional approval” instead of “Order for registration” or “Order for approval”, then all such Form No. 10AC shall be considered as an “Order for registration or approval” and, in such cases where Form No. 10AC has been issued, -

- (a) under section code 01 (applications seeking re-registration),-

- (i) in the heading and in rows 6, 7, 9 and 10 the words ,“ provisional registration” shall be read as “registration”;
- (ii) in row 8 the word “ provisionally registered” shall be read as “registered”;
- (b) under section codes 03, 04, 05, 06 or 11 (applications seeking re-approval),-
- (i) in the heading and in rows 6, 7, 9 and 10 the words ,“ provisional approval” shall be read as “approval”;
- (ii) in row 8 the word “ provisionally approved” shall be read as “approved”;
- (iii) row no 5 of Form No. 10AC (issued for all section codes) shall be read as “Unique Registration Number” instead of “Provisional Approval/ Approval Number” or “ Provisional Registration/ Registration Number”, as the case maybe.

(Neha Sahay)

Under Secretary
TPL Division

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2. PS to the Finance Secretary.
3. Chairman and Members, CBDT.
4. Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries, CBDT.
5. C&AG of India (30 copies).
6. JS & Legal Adviser, Ministry of Law & Justice. New Delhi.
7. Institute of Chartered Accountants of India.
8. CIT (M&TP). Official Spokesperson of CBDT.
9. Principal DGIT (Systems) for uploading on departmental website.

(Neha Sahay)

Under Secretary
TPL Division

Annexure A

- I. For orders passed under clause (a) of sub-section (1) of section 12AB (re-registration):

Form 10 AC
[As per rule 17A]

The registration is granted subject to the following conditions:-

1	Any income derived from property held under trust, wholly or in part for charitable or religious purposes, shall not be applied, other than for the objects of the trust or institution.
2	The trust or institution shall not have income from profits and gains of business which is not incidental to the attainment of its objectives.
3	Separate books of account shall be maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives.
4	The trust or institution shall not apply any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public.
5	The trust or institution established for charitable purpose created or established after the commencement of this Act, shall not apply any part of its income for the benefit of any particular religious community or caste.
6	No non-genuine activity shall be carried out by the trust or institution.
7	No such activity shall be carried on by the trust or institution which is not in accordance with all or any of the conditions subject to which it was registered.
8	The trust or institution shall comply with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1) of section 12AB.
9	The form for registration in Form No 10A has been duly filled in by providing all the information or documents and no false or incorrect information or documents have been provided.
10	Where the trust or institution is required to furnish application for registration under sub-clause (ii) of clause (ac) of sub-section (1) of section 12A the said trust or institution shall furnish such application within the time allowed under that clause.
11	Where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, the trust or institution shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution, within a period of thirty days from the date of the said adoption or modification.

Annexure B

- II. For orders passed under clause (c) of sub-section (1) of section 12AB (provisional registration)

Form 10 AC
[As per rule 17A]

The registration is granted subject to the following conditions:-

1	Any income derived from property held under trust, wholly or in part for charitable or religious purposes, shall not be applied, other than for the objects of the trust or institution.
2	The trust or institution shall not have income from profits and gains of business which is not incidental to the attainment of its objectives.
3	Separate books of account shall be maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives.
4	The trust or institution shall not apply any part of its income from the property held under a trust for private religious purposes, which does not enure for the benefit of the public.
5	The trust or institution established for charitable purpose created or established after the commencement of this Act, shall not apply any part of its income for the benefit of any particular religious community or caste.
6	No non-genuine activity shall be carried out by the trust or institution.
7	No such activity shall be carried on by the trust or institution which is not in accordance with all or any of the conditions subject to which it was registered.
8	The trust or institution shall comply with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1) of section 12AB.
9	The form for registration in Form No 10A has been duly filled in by providing all the information or documents and no false or incorrect information or documents have been provided.
10	The trust or institution shall apply for registration within 6 months of commencement of the activities or at least 6 months prior to the expiry of period of provisional registration, whichever is earlier.
11	Where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, the trust or institution shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for registration of the trust or institution, within a period of thirty days from the date of the said adoption or modification.

Annexure C

- III. for orders passed under clause (i) of second proviso to clause (23C) of section 10 (re-approval)

Form 10 AC
[As per rule 2C]

The approval is granted subject to the following conditions:-

1	Any income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, shall not be applied, other than for the objects for which it is established.
2	The fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall not have income from profits and gains of business which is not incidental to the attainment of its objectives.
3	Separate books of account shall be maintained by such fund or institution or trust or any university or other educational institution or any hospital or other medical institution in respect of the business which is incidental to the attainment of its objectives.
4	No non-genuine activity shall be carried out by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution.
5	No such activity shall be carried on by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution which is not in accordance with all or any of the conditions subject to which it was notified or approved.
6	The fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall comply with the requirement of any other law for the time being in force.
7	The form for approval in Form No 10A has been duly filled in by providing all the required information or documents and no false or incorrect information or documents have been provided.
8	Where the fund or institution or trust or any university or other educational institution or any hospital or other medical institution is required to furnish application for approval under clause (ii) of first proviso to clause (23C) of section 10, the said fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall furnish such application within the time allowed under that clause.

Annexure D

IV. for orders passed under clause (iii) of second proviso to clause (23C) of section 10 (provisional approval):

Form 10 AC
[As per rule 2C]

The approval is granted subject to the following conditions:-

1	Any income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, shall not be applied, other than for the objects for which it is established.
2	The fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall not have income from profits and gains of business which is not incidental to the attainment of its objectives.
3	Separate books of account shall be maintained by such fund or institution or trust or any university or other educational institution or any hospital or other medical institution in respect of the business which is incidental to the attainment of its objectives.
4	No non-genuine activity shall be carried out by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution.
5	No such activity shall be carried on by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution which is not in accordance with all or any of the conditions subject to which it was notified or approved.
6	The fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall comply with the requirement of any other law for the time being in force.
7	The form for approval in Form No 10A has been duly filled in by providing all the information or documents and no false or incorrect information or documents have been provided.
8	The fund or trust or institution or university or other educational institution or hospital or other medical institution shall apply for approval within 6 months of commencement of the activities or at least 6 months prior to the expiry of period of provisional approval, whichever is earlier.

Annexure E

- V. For orders passed under clause (i) of second proviso to sub-section (5) of section 80G (re-approval)

Form 10 AC
[As per rule 11AA]

The approval is granted subject to the following conditions:-

1	The registration granted under section 12AB or approval granted under clause (23C) of section 10 has not been cancelled by the Principal Commissioner or Commissioner for specified violations as mentioned in sub-section (4) of section 12AB or under fifteenth proviso to clause (23C) of section 10.
2	The form for approval in Form No 10A has been duly filled in by providing all the information or documents and no false or incorrect information or documents have been provided.
3	The registration granted under section 12AB or approval granted under clause (23C) of section 10 has not been cancelled by the Principal Commissioner or Commissioner as authorised by the Board for non-compliance of conditions mentioned in rule 2C or rule 17A of the Income-tax Rules, 1962.
4	Where the institution or fund is required to furnish application for approval under clause (ii) of first proviso to sub-section (5) of section 80G, the said institution or fund shall furnish such application within the time allowed under that clause.

Annexure F

VI. For orders passed under clause (iii) of second proviso to sub-section (5) of section 80G (provisional approval) :

Form 10 AC
[As per rule 11AA]

The approval is granted subject to the following conditions:-

1	The registration granted under section 12AB or approval granted under clause (23C) of section 10 has not been cancelled by the Principal Commissioner or Commissioner for specified violations as mentioned in sub-section (4) of section 12AB or under fifteenth proviso to clause (23C) of section 10.
2	The form for approval in Form No. 10A has been duly filled in by providing all the information or document and no false or incorrect information or documents have been provided.
3	The institution or fund shall apply for approval within 6 months of commencement of the activities or at least 6 months prior to the expiry of period of provisional approval, whichever is earlier.
4	The registration granted under section 12AB or approval granted under clause (23C) of section 10 has not been cancelled by the Principal Commissioner or Commissioner as authorised by the Board for non-compliance of conditions mentioned in rule 2C or rule 17A of the Income- tax Rules, 1962.