

Budget 2018 proposals Impacting Charitable/Religious Trusts

This government is continuously tightening the law to bring more transparency in the working of Charitable/Religious Trusts. It was the introduction of Exit Tax in the Finance Act' 2016, we have covered the same in "[Analysis of Provisions related to tax on Accreted Income of Certain Trusts and Institutions](#)". Some major changes were brought in vide the Finance Act' 2017, we have discussed them in detail in the article "[Analysis of amendments related to Charitable and religious trusts.](#)"

Even the Finance Bill'2018 has proposed some major changes impacting trusts.

1) Mandatory Requirement of obtaining PAN for the Trustees:

Section 139A is amended to propose that every person, not being an individual, which enters into a financial transaction of an amount aggregating to two lakh and fifty thousand rupees or more in a financial year shall be required to apply to the Assessing Officer for allotment of PAN.

This is done in order to use PAN as Unique Entity Number (UEN) for non-individual entities.

It is also proposed that the trustee, author, founder, chief executive officer, principal officer or office-bearer or any person competent to act on behalf of such entities shall also apply to the Assessing Officer for allotment of PAN.

This is done in order to link the financial transactions with the natural persons.

2) Mandatory Requirement of TDS Deduction:

At present:

- There are no checks on whether such trusts or institutions follow the provisions of deduction of tax at source under Chapter XVII-B of the Act.
- This has led to lack of an audit trail for verification of application of income.

Section 11 provides for exemption in respect of income derived from property held under trust for charitable or religious purposes to the extent to which such income is applied or accumulated during the previous year for certain purposes in accordance with the relevant provisions.

It is proposed to insert a new Explanation to the said section so as to provide that for the purposes of determining the amount of application under clause (a) or clause (b) of sub-section (1) thereof, the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Analysis:

Non-deduction of tax at source would now attract disallowance in the hands of the charitable trust also. Thus, now trusts will be mandatorily required to deduct TDS as per provisions of Chapter XVII-B of the Act to claim expense as the application of Income. Else the same will be taxable in the hands of Trusts.

3) Disallowance of Expenditure Exceeding Rs. 10,000/- in Cash:

The provisions of section 40(3) and 40(3A) will be mutatis mutandis apply to the Trusts. Earlier, charitable trusts were availing benefits even in respect of the application of income by way of cash payments.

This proposed amendment is again in line with the dream of digital India and cashless economy. Thus, payment exceeding Rs. 10,000 in cash will not be considered as the application of income and the same will be taxable in the hands of trusts.

Source courtesy:caclubindia.com