



TAXATION OF TRUST

AY 2024-25

ASAP and Associates LLP



Today's agenda

- CHARTIABLE TRUST
- TAXATION CRITERIA
- DEEMED APPLICATION
- ACCUMULATED INCOME
- CORPUS DONATIONS
- RESTRICTED APPLICATION
- INCOME FROM PGBP
- CONDITIONS FOR EXEMPTION
- ANONYMOUS DONATIONS
- FORM 10BD
- FORM 10BB/10B
- SCHEDULES APPLICABLE IN ITR FOR TRUSTS

CHARITABLE & RELIGIOUS TRUST

Section 2(15)-"charitable purpose" includes

- relief of the poor,
- education (has wide meaning-but restricted to formal education-SC)
- yoga,
- medical relief,
- preservation of environment (including watersheds, forests and wildlife) and
- preservation of monuments or places or objects of artistic or historic interest, and
- the advancement of any other object of general public utility (refer note)

Note: any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business is not charitable and business receipts cannot be more than 20% of gross receipts

Section 11

This section provides exemptions to income derived from property held under trust or institutions wholly for charitable or religious purposes to the extent that such income is applied to charitable and religious purposes in India.

As per Section 11(1):

Following incomes shall be exempt from tax

- Corpus Donation (If deposited in mode as per 11(5))
- 15% of Gross Income (Set Aside)
- Income applied for charitable or religious purpose in India

TAXATION CRITERIA

Income received by trust

15% Set Aside

income upto 15% can be
Freely
Accumulated or set apart
for application for such
purpose in India

Remaining 85%

LESS: Amount applied for
charitable/ religious
purpose in India

REMAINING IS TAXABLE

If as per the taxation criteria -

A. INCOME < APPLICATION

Then there will be a negative balance but this excess application cannot be carried forward to next years

B. INCOME > APPLICATION

Then assessee has the following options available

- Extra Accumulation - File Form No 10
- Deemed to be applied [not in 10(23C)]- File Form No 9A

Deemed Application

There can be two types of deemed application

Firstly -

Whole or any part of the income not received during the previous year by the trust

- Deemed Application, if said income is applied in the:
year of receipt or
immediate next year (bonus year)
- if not applied then treat it as income in year following the year of receipt (As per 115BBI)

Deemed Application

Example

If the assessee income of Rs 35,00,000 in an AY 2021-22 out of which Rs 5,00,000 is yet to be received. Then, the assessee has an option to treat the above 5,00,000 as deemed application.

Treatment -

In AY 2021-22

Amount of Rs 5,00,000 will be reduced from taxable total income. It will be shown in Schedule D in ITR 7.

In AY 2024-25 (Assessee receives such income)

Assessee has to apply this income in current PY or subsequent year i.e AY 2025-26. If not applied then it is taxable @30%.

In ITR 7 -

In both the assessment years, the treatment of deemed application is done through Schedule D only.

Deemed Application

There can be two types of deemed application

Secondly -

Any other reason -

(Ex: Bumper donation received in March)

- Deemed Application- if said income is applied in year following the year of receipt

-otherwise treat it as income in the year following the year of receipt

Deemed Application

To claim the deduction of deemed application assessee is required to file form 9A with the AO at least two months before the date of ROI

After filing such form income to that extent will be deemed to be applied in the year in which it is derived and, same income will not be considered as application of income (as it is shown in Schedule D only) in the year in which it is applied.

Section 11(2)- Accumulation of Income

When 85% of income is not applied during the PY but set apart /accumulated then, such accumulation (over and above 15%) is allowed if -

- Accumulated funds are invested as per 11(5) various modes are provided
- Form 10 is filled stating purpose and period of accumulation
- Form 10 should be furnished at least 2 months before the due date of ROI (Latest amendment)
- Such money should not be donated to any other trust

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Section 11(2)- Accumulation of Income

The accumulation of such income is allowed for a maximum period of 5 years.

This accumulation is shown in Schedule I of ITR 7.

The details of amount accumulated for different financial years along with its purpose is shown under this schedule.

If the amount is not not utilised within the time frame of the conditions are violated then section 11(3) applies.

Section 11(3)- Denial of Exemptions of 11(2)

If the conditions of section 11(2) is breached, then the exemption given earlier shall be withdrawn

Consequence-

If the exemption of 11(2) is withdrawn, then earlier accumulated income will be taxable in the year of violation @ 30% u/s 115BBI

CORPUS DONATION

A donation will be treated as a corpus donation only if followed by a specific written direction of the donor and is of capital nature. Section 11(1)(d) of the Act, exempts corpus donations received by the Trust.

But as per the amendment made in section 11(1)(d) vide Finance Act, 2021, the amount of corpus donation will be taxable, unless it is invested in forms or modes specified in section 11(5) of the Act.

Amount applied out of corpus shall not be treated as application in the current year, but in the year when such amount is deposited back in corpus

Corpus donation is shown in Schdule J in ITR 7

Section 11(5)- SAFE INVESTMENT MODES

The IT Act's Section 11(5) addresses the investment options listed in Section 11:

- Investments in a moveable property (excluding equipment and plants)
- Investments in the manner specified in Section 2 Clause (c) of the Government Savings Certificates Act, 1959 (46 of 1959), and other securities or certificates issued by the Central Government under those Government's Small Savings Schemes
- Shares of public companies are subject to the mentioned requirements
- Deposits with a cooperative society that conducts banking, such as a cooperative land development bank or a cooperative land mortgage bank
- Funds kept in bank accounts at Post Office Saving
- UTI investments

This is shown in Schedule J of ITR 7

Income from PGBP

PGBP earned by trust shall not be considered for exemption.

Unless:

- such activity is incidental to attainment of the objectives of the trust and
- separate books of accounts are maintained in respect of such business.

The taxable income is the NET proceeds from business

RESTRICTED APPLICATIONS

DEPRECIATION :

If cost of assest is already claimed as application then depreciation is not allowed in future

LOANS:

Amount applied from any loan or borrowing shall not be treated as application in CY, but in the year when such loan is repaid

RESTRICTED APPLICATIONS

DONATION TO OTHER TRUST:

Corpus Donations - Not allowed as application
Other Donations - 85% allowed as application

SECTION 40A(3):

Expenditure in a single day to single person more than 10,000 other than by Account payee check or ECS is not treated as application

Taxation of Anonymous Donation



Anonymous Donation means any voluntary contribution [as per 2(24)(iia)] where Person receiving donation does not maintain the Record of identity indicating the name and address of the person giving such contribution.

These donations are taxed @ 30% of the Aggregate anonymous donation received in excess of the higher of the following

- Rs.1,00,000/-
- 5% of the total donations received

NOT APPLICABLE TO-

Wholly Religious trust

Wholly Religious and charitable trust

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CONDITIONS FOR EXEMPTIONS OF SECTION 11

01

Trust is registered
under 12AB

02

If total income is
more than basic
exemption then
maintain books of
accounts and get
audited

03

File return of income
on or before the due
date

CALCULATION OF INCOME IN CASE OF VIOLATION

As per Section 13(10) –

- If commercial receipts > 20% of gross received in case of advancement of general public utility
- Books of accounts not maintained
- Not audited
- Return of Income not filed on time i.e 31 Oct

Then the Taxable income is –

Gross Receipts
Less: Revenue Expenditure

No benefit of application and exemptions shall be given

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CALCULATION OF INCOME IN CASE OF VIOLATION

The revenue expenditure is allowed if following conditions are satisfied:

- such expenditure is not from the corpus standing to the credit of the trust or institution as on the end of the financial year
- Such expenditure is not from any loan or borrowing;
- Claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income, in the same or any other previous year; and
- Such expenditure is not in the form of any contribution or donation to any person.

Amendment from AY 2022-23

Any sum payable by any trust or institution shall be considered as application of income in the PY in which sum is actually paid by it (irrespective of method of accounting followed by the trust)

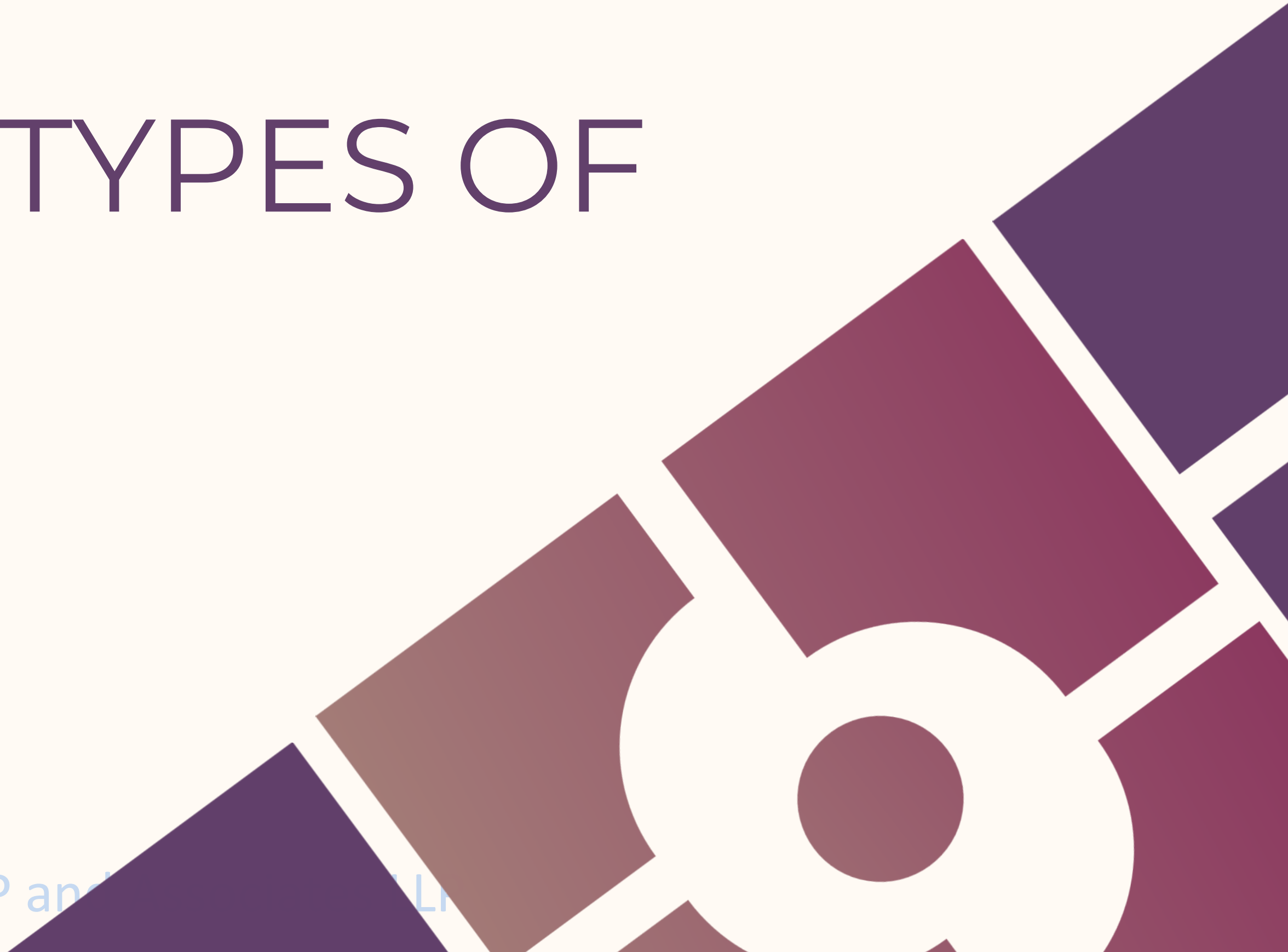
Where during any PY, any sum have been claimed to be applied such sum will not be allowed as application in any subsequent years

APPLICATION IS ALLOWED ON PAYMENT BASIS
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DIFFERNT TYPES OF FORMS AND ITR 7

ASAP and ITR 7



AUDIT FORM

FORM 10B

1. The total income of the trust/institution [whether registered under 12AB or 10(23C)] exceeds Rupees Five crore without giving the effect of Section 11, 12 & 10(23C);
2. The organisation receives any foreign contribution (even if the income is below Rupees Five crore);
3. The income of the trust or institution is applied outside India (even if the income is below Rupees Five crore and the organisation has not received any foreign contribution).

FORM 10BB

1. The total income of the trust or institution [whether registered under 12AB or 10(23C)] without giving effect to the provisions of sections 11 and 12 or Section 10(23C) (iv), (v), (vi), (via) of the Act, is up to Rupees five Crore;
2. The trust or institution has not received any foreign contribution during the previous year;
3. The trust or institution has not applied any part of its income outside India during the previous year.

FORM 10BD

Under [Section 80G](#) of the Income Tax Act 1961, a deduction on payment of donations is applicable. Accordingly, Finance Act 2021 introduced an amendment where the trust that possesses an 80G certificate needs to submit the statement of particulars of donation in each financial year in Form 10BD to the authority within the stipulated time. Form 10BD due date for is 31st May.

So, for filing Form 10BD, entities must fill in the necessary information. This includes the following:

- Donor's ID
- PAN/Passport/[Aadhaar card](#)/Driving License and another unique identification number.
- Donor's address
- Section code
- Donor's name
- Mode of receipt (Cash, cheque/draft, kind, and others)
- Donation type including specific, corpus, restricted grant or others
- Donation Amount

Under [Section 80G](#) of the Income Tax Act 1961, a deduction on payment of donations is applicable. Accordingly, Finance Act 2021 introduced an amendment where the trust that possesses an 80G certificate needs to submit the statement of

ITR 7

ITR-7 is filed by the following categories of assessee –

- section 139(4A): Income of Charitable and Religious Trusts
- section 139 (4B): Political Parties
- section 139 (4C): Scientific research institutions
- section 139 4(D): University, college or other institution

ITR 7

01

Part-A – General information

02

Part-B – Statement of the total income and tax computation with respect to income chargeable to tax.

03

Schedules

SCHEDULES

Schedule-I:

Details of amounts accumulated/ set apart within the meaning of section 11(2)

Schedule-D:

Details of deemed application of income under clause (2) of Explanation 1 to sub-section (1) of section 11.

Schedule-J:

Statement showing the investment of all funds of the Trust or Institution as on the last day of the previous year.

Schedule R :

Reconcillation of Corpus of Schedule J and Balance sheet

Schedule A:

Amount applied during the year

OTHER INFORMATION

General & Other Information

- > Project/Institution registered under IT Act or any other Act
- > Details of Unlisted equity shares held
- > Other Information
- > Audit Information & Representative Assessee Info

Author / Founder / Trustee / Manager Details

- > Author(s)/ Founder(s)/Settlor(s) if alive
- > Beneficial ownership details
- > Name of the Person who have substantial contribution
- > Name of Relatives of Authors, Founders, Trustee etc



THANK YOU

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