

NOTE ON REGISTRTION OF CHARITABLE TRUSTS

Background:

The Finance Act 2020 and 2021 has brought in some dynamic changes in respect of the exempted Trusts, Societies, NGOs, Charitable Trusts, Section 8 Companies including educational, medical and/or religious institutions complying with the certain rules of registration under the Income Tax Act, 1961 (the Act). The procedure for applications for registration of Trusts and their registrations were done manually and were perpetuity in nature. The registrations under the former legislation were a cumbersome process, without any time limit. There was need of improvement with advent of technology and keeping in mind the practical issue of difficulty in obtaining registration /approval /notification before actually starting the activities.

It is also felt that the approval /registration /notification for exemption should also be for a limited period, which would act as a check to ensure that the conditions of approval /registration /notification are adhered to for want of continuance of exemption. This would, in fact also be a reason for having a non-adversarial regime and not conducting roving inquiries in the affairs of the exempt entities on day to day basis, in general, as in any case they would be revisiting the concerned authorities for new registration before expiry of the period of exemption.

With effect from 1st April, 2021, the registration under section 12AA of the Act will become redundant and the new section 12AB has replaced the old section 12A for registration purposes. This newly incorporated section 12AB of the Act will have a new regime of the registration process by prescribing the time frame for processing the application and a limited validity of such exemption for five years only. The objective to digitize the process of registration with a fixed timeline is to curb the malpractices that have been noticed in the functioning of some of such institutions in the judicial and official scrutiny of the granted lifelong exemptions. The intention of the legislature is clear to provide the tax benefit only to those which carry on genuine charitable activities. Even the existing charitable institutions are required to apply for fresh registration under the new provisions of Sec 12AB of Income Tax Act.

Features:

1. The scheme of registration procedure u/s. 12AB will be online, though not faceless. Until now, the process of the registration was completely manual and scattered all over the country.
2. The Government aims to create a national register of all charitable entities and eliminate the defunct and inactive ones through these amendments. It would lead to better regulated registration procedure, thereby streamlining spending in the philanthropy and CSR space.
3. All trusts which are currently registered u/s. 12A /12AA will have to make an application for registration to Principal Commissioner of Income Tax (PCIT) / Commissioner of Income Tax (CIT) (Exemptions) within 3 months from 1st April, 2021 (between 1st April, 2021 to 30th June, 2021)
4. The registration has to be granted u/s. 12AB for a period of 5 years by the PCIT with in a period of 6 months from the end of the month in which the application for registration is made. Hence, the new registration u/s. 12AB is not permanent like the earlier one but for a limited period.
5. In order to apply for renewal of registration u/s. 12AB thereafter, application for registration should be made at least 6 months before the end of 5 years' registration.

6. In order to renew the registration u/s. 12AB, the PCIT then shall have to call for documents and make enquiries to be satisfied about the genuineness of activities of the trust and for compliance of requirements of any other law as are material for the purposes of achievement of its objects. After satisfying himself about the objects of the trust, genuineness of the activities and compliance with requirements of other laws, the PCIT shall grant registration for a period of 5 years within 6 months from the end of the month in which the application was made. If the PCIT is not satisfied, the application is to be rejected and the registration to be cancelled after affording an opportunity to the Trust of being heard.
7. In the case of a new trust, it shall have to apply for its registration u/s. 12AB within one month prior to commencement of previous year relevant to the assessment year from which the registration is sought.
8. Applications u/s 12AA of all trusts which remained pending as on 1st April, 2021 where no order passed by the PCIT, such applications will be deemed to be applications made as above.
9. Provisional Registration for new Trusts who have not started their activities will be granted u/s. 12AB for a period of 3 years from the assessment year from which registration sought by the PCIT with in a period of 1 month from the end of the month in which the application is made.
10. Trusts modifying Objects which are not conforming to the conditions of registration, application to be made for registration within 30 days from the date of adoption or modification of the objects and the same procedure be followed as in the cases of renewal of registration.
11. The new procedure relating to the approval / registration / notification of certain entities referred to in sections 10(23C), 12AA, 35 and 80G of the Act have been rationalized. Amendments have been made vide the Finance Act, 2020 in sections 35 and 80G of the Act for intimation, filing statements before the income-tax authorities and furnishing certificates to donors, etc. with effect from 1st April 2021.
12. References of section 12AB in section 115TD, section 115BBDA and section 56 have been omitted and are introduced from 1st April 2021. The Finance Act, 2020 amended Section 56(2)(x) w.e.f. 01.06.2020 to provide that the amount received by an individual or an HUF from any trust or institution registered under section 12AB of the Act shall not be deemed as "Income from other sources". This provision come into effect from 1st April 2021. Finance Act, 2020 also amended section 115BBDA to exclude any trust or institution registered under section 12AB from the list of the specified assesseees being subjected to the tax @ 10% on dividend income exceeding Rs. 10 lakhs in aggregate.
13. There is no provision to condone the delay for shifting to the new registration regime.
14. The concept of any provisions related to the surrender of registration in the Income Tax Act is not there. One cannot go out of charity at his own wish since; earlier full exemption was claimed on the income. However, there are exit provisions related to the cancellation of registration.
15. The Finance Act, 2021 has also made significant changes in the provisions governing such institutions to eliminate any possibility of unintended double deduction / double-counting while calculating application or accumulation of funds.
16. Corpus contributions received after 1st April, 2021 have now to be mandatorily invested in specified manner by such qualifying organisations. This is a pre-requisite to avail tax exemption in respect of Corpus contributions.

17. It has now been specifically clarified that the excess of expenditure over income, if any, cannot be carried forward to the next year. The intention is that minimum 85% application should be met on a year-on-year basis out of the current year's contributions for claiming tax exemption. To further solidify this position, set-off or deduction of excess application of earlier year(s) for meeting the minimum 85% application threshold in the subsequent year(s) has been specifically prohibited.
18. The educational or medical institutions are entitled to avail tax exemption under section effective from 1st April 2021. However, this limit now stands revised upwards to Rs. 5 crores.
19. The Trust shall require re-registration for confirming the modifications made to the object clause.
20. Simultaneous benefits under two sections will not be now allowed. If a Trust is registered u/s. 12A (1) or 12AA and either u/s. 10(23C) and makes an application either u/s. 10(23C), then the registration u/s. 12AB will not be operative and vice versa if a Trust makes an application u/s. 12AB then the approval u/s. 10(23C) will be inoperative. In short, henceforth, the Trust will be able to enjoy exemptions either u/s. 10(23C) or u/s. 12AB.

Form for Registration and its requirements:

1. The existing Form 10A used for registration has been replaced by new a Form 10A for registration or provisional registration or intimation or approval or provisional approval. Form 10AB is for application for registration or approval of the Trust.
2. There are six **significant changes** in Form 10A or 10AB.
 - i) In case PAN or Aadhaar number of the Author/Founder/ Settlor/Trustee/ Member of society/Member of the Governing Council/ Director/ shareholder holding 5% or more of shareholding / Office Bearer is not available, they can provide Taxpayer Identification Number of the country where the person resides, Passport number, Elector's photo identity number, Driving License number or Ration card number.
 - ii) The applicants now need to provide details of registration on DARPAN Portal or under FCRA Act or any provision of Income-tax Act.
 - iii) The applicants need to confirm if they have filed an Income Tax Return of the last assessment year.
 - iv) Form 10G which was required for registration u/s. 80G has now been withdrawn. The same can be applied now with Form 10A or 10AB as the case may be.
 - v) The applicants need to provide details of Income & Expenditure of the religious activities.
 - vi) The applicants need to provide details related to Assets & Liabilities and Income.

Guidelines, form and manner in respect of approval of a fund or trust or institution or university or any hospital or other medical institution under clause (i) or clause (ii) or clause (iii) or clause (iv) of first proviso to clause (23C) of Section 10

Rule 2C deals with filing of an application for the purpose of grant of approval for the exemption u/s 10(23C) of a fund or trust or institution or university or other educational institution or any hospital or other medical institution.

Form 10A/Form 10AB: An application under clause (i) or clause (ii) or clause (iii) or clause (iv) of the first proviso to section 10(23C) for the grant of approval of a fund or trust or institution, or university or other educational institution or any hospital or other medical institution shall be made in Form 10A or Form 10AB.

Documents to be furnished along with Form Nos. 10A or 10AB:

The following documents are required to be submitted along with Form Nos. 10A or 10AB:

- (a) where the applicant is created or established, under an instrument, self-certified copy of such instrument creating or establishing the applicant.
- (b) where the applicant is created or established, otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant.
- (c) self-certified copy of the registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be.
- (d) self-certified copy of registration under Foreign Contribution (Regulation) Act, 2010 (FCRA), if any.
- (e) self-certified copy of existing order granting approval under clause (23C) of section 10;
- (f) self-certified copy of order of rejection of application for grant of approval under clause (23C) of section 10, if any;
- (g) where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the applicant relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;
- (h) where a business undertaking is held by the applicant as per the provisions of sub-section (4) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of such business undertaking relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period;
- (i) where the income of the applicant includes profits and gains of business as per the provisions of sub-section (4A) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-

certified copies of the annual accounts of such business relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period;

j) Note on the activities of the applicant.

Procedure to be followed:

1. **Online furnishing of Form 10A/Form 10AB:** Form Nos. 10A/10AB is required to be furnished online electronically.
2. **Verification of Form 10A/Form 10AB:** Form No. 10A or 10AB shall be verified by the person who is authorised to verify the return of income under section 140 of the Act with digital signature (DSC) or EVC.

If the return of income of the applicant is required to be furnished under digital signature, then furnishing Form 10A/Form 10AB with DSC is compulsory else the forms can be furnished with EVC.

3. **Allotment of 16-digit alphanumeric Unique Registration Number (URN):** On receipt of an application in Form No. 10A, the Principal Commissioner or Commissioner shall pass **an order in writing granting approval under section 10(23C) in Form No. 10AC** and issue a sixteen-digit alphanumeric Unique Registration Number (URN) to the applicants.
4. **Cancellation of the approval granted in Form No. 10AC and Unique Registration Number (URN):** If, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents or by not complying with the requirements of Rule 2C(3) or (4), then the Principal Commissioner or Commissioner after giving an opportunity of being heard, may **cancel the approval granted in Form No. 10AC and Unique Registration Number (URN)** so issued and such **approval in Form No.10AC** or such Unique Registration Number (URN) shall be **deemed to have never been granted** or issued.
5. **Provisional Approval in case of a new Institution:** Where an application for approval is made by a new educational or a medical institution under clause (iv) of first proviso to clause (23C) of section 10 during previous year beginning on 1st day of April, 2021, the **provisional approval shall be effective from the assessment year beginning on 1st day of April, 2022.**
6. **Approval in Form 10AD:** Where an application is made in **Form 10AB**, the order of approval or rejection or cancellation shall be in Form 10AD and in case approval is granted a sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued, by the Principal Commissioner or Commissioner.

Guidelines, form and manner in respect of approval under section 35(1)(ii)/(iii) for scientific research association or university etc.

1. New Form 3CF: The amended Rule 5C has substituted Form No. 3CF-I and Form No. 3CF-II with a new **Form 3CF** for application for approval u/s 35(1)(ii)/(iii).

2. Online furnishing of Form 3CF: Form No 3CF is required to be furnished online electronically.

3. Verification of Form 3CF: Form 3CF shall be verified by the person who is authorised to verify the Return of Income under section 140 of the Act with digital signature (DSC) or EVC. If the Return of Income of the applicant is required to be furnished under digital signature, then furnishing Form 3CF with DSC is compulsory else the forms can be furnished with EVC.

New Rule 5CA inserted for filing of application for intimation under 5th proviso to section 35(1):

1. Application for Intimation of approval under 5th proviso to section 35(1): The application for intimation under the 5th proviso shall be made in **Form 10A**.

2. Documents to be furnished: The following documents are required to be submitted along with **Form No. 10A**:

(a) where the applicant is created or established under an instrument, **self-certified copy of the instrument**;

(b) where the applicant created or established otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant;

(c) self-certified **copy of registration** with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts or other registration document, as the case may be;

(d) self-certified copy of registration under Foreign Contribution (Regulation) Act, 2010 (FCRA), if any;

(e) self-certified **copy of existing Notification** granting approval under section 35.

3. Online furnishing of Form 10A: Form Nos. 10A is required to be furnished online electronically.

4. Verification of Form 10A: Form No. 10A shall be verified by the person who is authorised to verify the Return of Income under section 140 of the Act with digital signature (DSC) or EVC.

If the Return of Income of the applicant is required to be furnished under digital signature, then furnishing Form 10A with DSC is compulsory else the forms can be furnished with EVC.

5. Allotment of 16-digit alphanumeric Unique Registration Number (URN): On receipt of an application in Form No. 10A, the Principal Commissioner or Commissioner shall issue a sixteen-digit alphanumeric Unique Registration Number (URN) to the applicants.

6. Cancellation of the approval granted in Form No. 10AC and Unique Registration Number (URN): If, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents or by not complying with the requirements of Rule 5CA(3) or (4), then the Principal Commissioner or Commissioner after giving

an opportunity of being heard, may **cancel the Unique Registration Number (URN)** so issued and such Unique Registration Number (URN) shall be **deemed to have never been** issued.

Prescribed authority, guidelines, form, manner and conditions for approval under section 35(1) (iia) for a Scientific Research Company

New Form 3CF: The amended Rule 5C has substituted Form No. 3CF-III with a **new Form 3CF** for application for approval u/s 35(1) (iia).

1. Online furnishing of Form 3CF: Form No 3CF is required to be furnished online electronically.

2. Verification of Form 3CF: Form 3CF shall be verified by the person who is authorised to verify the Return of Income under section 140 of the Act with digital signature (DSC) or EVC. If the Return of Income of the applicant is required to be furnished under digital signature, then furnishing Form 3CF with DSC is compulsory else the forms can be furnished with EVC.

Requirements for approval of institution of fund under section 80G(5)(vi)

New substituted Rule 11AA: Rule 11AA of the Income Tax Rules, 1962 is substituted with new rules. Rule 11AA deals with requirements for approval of an institution or fund under section 80G.

Form 10A/Form 10AB: An application under clause (i) or clause (iv) of the first proviso to section 80G (5) for the grant of approval of a fund or institution shall be made in Form 10A. Where application is made under clause (i) or clause (iv) of the first proviso to section 80G (5), the application shall be made in Form 10AB.

Documents to be furnished: The following **documents are required to be submitted along with Form Nos. 10A or 10AB:**

- (a) where the applicant is created, or established, under an instrument, self-certified copy of the instrument;
- (b) where the applicant is created, or established, otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant;
- (c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;
- (d) self-certified copy of registration under Foreign Contribution (Regulation) Act, 2010(42 of 2010), if the applicant is registered under such Act;
- (e) self-certified copy of existing order granting registration under clause (vi) of sub-section (5) of section 80G;
- (f) self-certified copy of order of rejection of application for grant of approval under clause (vi) of sub-section (5) of section 80G, if any;
- (g) where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the applicant relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;
- (h) note on the activities of the applicant.

4. Online furnishing of Form 10A/Form 10AB: Form Nos. 10A/10AB is required to be furnished online electronically.

5. Verification of Form 10A/Form 10AB: Form No. 10A or 10AB shall be verified by the person who is authorised to verify the Return of Income under section 140 of the Act with digital signature (DSC) or EVC.

If the Return of Income of the applicant is required to be furnished under digital signature, then furnishing Form 10A/Form 10AB with DSC is compulsory else the forms can be furnished with EVC.

6. Allotment of 16-digit alphanumeric Unique Registration Number (URN): On receipt of an application in Form No. 10A, the Principal Commissioner or Commissioner shall pass an **order** in writing **granting approval under section 80G(5) in Form No. 10AC** and **issue a sixteen-digit alphanumeric Unique Registration Number (URN)** to the applicants.

7. Cancellation of the approval granted in Form No. 10AC and Unique Registration Number(URN): If, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents or by not complying with the requirements of Rule 11AA(3) or (4), then the Principal Commissioner or Commissioner after giving an opportunity of being heard, may **cancel the approval granted in Form No. 10AC and Unique Registration Number (URN)** so issued and such **approval in Form No.10AC** or such Unique Registration Number (URN) shall be **deemed to have never been granted** or issued.

8. Provisional Approval in case of a new Institution or fund: Where an application for approval is made by a new institution or fund under clause (iv) of first proviso to section 80G(5), the **provisional approval shall be effective from the date of order in Form 10AC.**

9. Approval in Form 10AD: Where an application is made in **Form 10AB**, the order of approval or rejection or cancellation shall be in Form 10AD and in case approval is granted, sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued, by the Principal Commissioner or Commissioner.

Application for registration of Charitable or Religious Trusts, NGOs, etc.

1. New substituted Rule 17A: Rule 17A of the Income Tax Rules, 1962 is substituted with new rules. Rule 17A deals with application for registration of charitable or religious trusts, NGOs, etc. under sub-clause (i) or sub-clause(ii) or sub-clause(iii) or sub-clause(iv) or sub-clause(v) or sub-clause(vi) of clause (ac) of sub-section (1) of section 12A.

2. Form 10A/Form 10AB: An application under clause (i) or clause (vi) of section 12A (1) (ac) for the grant of approval of a fund or institution shall be made in Form 10A.

Where application is made under clause (ii)/(iii)(iv) or clause (v) of section 12A (1) (ac), the application shall be made in Form 10AB.

3. Documents to be furnished: The following **documents are required to be submitted along with Form Nos. 10A or 10AB:**

(a) where the applicant is created, or established, under an instrument, self-certified copy of such instrument creating or establishing the applicant;

(b) where the applicant is created, or established, otherwise than under an instrument, self-certified copy of the document evidencing the creation or establishment of the applicant;

- (c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;
- (d) self-certified copy of registration under Foreign Contribution (Regulation) Act, 2010 (42 of 2010), if the applicant is registered under such Act;
- (e) self-certified copy of existing order granting registration under section 12A or section 12AA or section 12AB, as the case may be;
- (f) self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA or section 12AB, as the case may be, if any;
- (g) where the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of the applicant relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;
- (h) where a business undertaking is held by the applicant as per the provisions of sub-section (4) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of such business undertaking relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period;
- (i) where the income of the applicant includes profits and gains of business as per the provisions of sub-section (4A) of section 11 and the applicant has been in existence during any year or years prior to the financial year in which the application for registration is made, self-certified copies of the annual accounts of such business relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up and self-certified copy of the report of audit as per the provisions of section 44AB for such period;
- (j) self-certified copy of the documents evidencing adoption or modification of the objects;
- (k) note on the activities of the applicant.

4. Online furnishing of Form 10A/Form 10AB: Form Nos. 10A/10AB is required to be furnished online electronically.

5. Verification of Form 10A/Form 10AB: Form No. 10A or 10AB shall be verified by the person who is authorised to verify the Return of Income under section 140 of the Act with digital signature (DSC) or EVC.

If the Return of Income of the applicant is required to be furnished under digital signature, then furnishing Form 10A / 10AB with DSC is compulsory else the forms can be furnished with EVC.

6. Allotment of 16-digit alphanumeric Unique Registration Number (URN): On receipt of an application in Form No. 10A, the Principal Commissioner or Commissioner shall pass **an order** in writing **granting registration under section 12AB(1)(a)/(c) in Form No. 10AC** and **issue a sixteen-digit alphanumeric Unique Registration Number (URN)** to the applicants.

7. Cancellation of the registration granted in Form No. 10AC and Unique Registration Number (URN):

If, at any point of time, it is noticed that Form No. 10A has not been duly filled in by not providing, fully or partly, or by providing false or incorrect information or documents or by not complying with the requirements of Rule 17A(3) or (4), then the Principal Commissioner or Commissioner after giving an opportunity of being heard, may **cancel the registration granted in Form No. 10AC and Unique Registration Number (URN)** so issued and such **registration** or such Unique Registration Number (URN) shall be **deemed to have never been granted** or issued.

8. Provisional Registration in case of a new Trust: Where an application for approval is made by a new Trust under section 12A(1)(ac)(vi) during previous year beginning on 1st day of April, 2021, the **provisional registration shall be effective from the assessment year beginning on 1st day of April, 2022.**

9. Registration in Form 10AD: Where an application is made in **Form 10AB**, the order of registration or rejection or cancellation shall be in Form 10AD and in case registration is granted, sixteen digit alphanumeric number Unique Registration Number (URN) shall be issued, by the Principal Commissioner or Commissioner.

Furnishing of Statement of Particulars and Certificate under clause (viii) and clause (ix) of sub-section (5) of section 80G or under sub-section (1A) of section 35

Section 80G(5)(viii)/(ix) and section 35(1A) requires furnishing of statement of donation received and issue of donation certificates to the donors for claiming deduction from the gross total income. This notification has framed the rules for furnishing such statements and certificates of donation to donors.

For this purpose, Rule 18AB is inserted.

1. Online filing of statements: Such statements are required to be filed electronically from the financial year 2021-22.

2. Form 10BD for furnishing statements: Statement of particulars required to be furnished by any research association, university, college or other institution or company or fund ("reporting person") **under clause (viii) of sub-section (5) of section 80G or under clause (i) to sub-section (1A) of section 35 shall be furnished in respect of each financial year, beginning with the financial year 2021-2022, in Form No. 10BD** and shall be verified in the manner indicated therein.

3. Reporting of aggregate amount of donation for each person: The reporting person shall report the aggregate amount of donation received from each person in the financial year for which the statement is furnished.

4. Reporting of donation received from more than one person: Where donation is received from more than one person, the proportionate amount of each person shall be reported. Where no proportion is specified by the donors, the same shall be proportioned equally.

5. Online furnishing of Form 10BD: The statement of donation in Form 10BD is required to be furnished online electronically.

6. Verification of Form 10BD: Form No. 10BD shall be verified by the person who is authorised to verify the Return of Income under section 140 of the Act with digital signature (DSC) or EVC.

If the Return of Income of the applicant is required to be furnished under digital signature, then furnishing Form 10BD with DSC is compulsory else the forms can be furnished with EVC.

7. Issue of Certificate to donors: The reporting person is required to furnish a **certificate of donation** (as referred to in clause (ix) of sub-section (5) of section 80G or in clause (ii) to sub-section (1A) to section 35), **to the donor in Form No. 10 BE** specifying the **amount of donation received during financial year from such donor**, beginning with the financial year 2021-2022.

The **certificate of donation in Form 10BE is required to be generated and downloaded from the income tax portal** to be implemented by the Pr. DGIT/DGIT (Systems).

8. Due Date for issuing Donation Certificate in Form 10BE: The certificate of donation is required to be furnished to the donor on or before the 31st May, immediately following the financial year in which the donation is received.

9. Annual filing of statement of donations received in Form 10BD: The statement of donations received in a financial year shall be required to be furnished by 31st May, immediately following the financial year in which the donation is received.

Disclaimer & Confidentiality

Information is being made available in this document purely for the benefit of the readers. Whilst every care has been taken in the preparation of this document, it may contain errors for which we should not be held responsible. The information given in this document provides a bird's eye view on the changes brought out in the provisions. This above represents our perception of the matter, in the outcome of which we do not have any interest, pecuniary or otherwise. It should not be relied for the purpose of economic or financial decisions. Each such decision would call for specific reference of the relevant statutes and consultation of an expert. If any tax authorities take a position different from the one discussed in this note, you may consider agitating the same before successive appellate fora.

VATSARAJ & Co.
Chartered Accountants

1st Floor, Fort Chambers,
"C" Block, 65, Tamarind Lane,
Fort, Mumbai 400 023

4th Floor, Bharat House,
104, Mumbai Samachar Marg
Fort, Mumbai 400 001

Deduction in respect of donations to certain funds, charitable institutions, etc.

80G. (1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section,

- (i) in a case where the aggregate of the sums specified in sub-section (2) includes any sum or sums of the nature specified in sub-clause (i) or in sub-clause (iia) or in sub-clause (iiaa) or in sub-clause (iiab) or in sub-clause (iib) or in sub-clause (iie) or in sub-clause (iif) or in sub-clause (iig) or in sub-clause (iiga) or sub-clause (iih) or sub-clause (iiha) or sub-clause (iihb) or sub-clause (iihc) or sub-clause (iihd) or sub-clause (iihe) or sub-clause (iihf) or sub-clause (iihg) or sub-clause (iihh) or sub-clause (iihi) or sub-clause (iihj) or sub-clause (iihk) or sub-clause (iihl) or sub-clause (iihm) or in sub-clause (vii) of clause (a) or in clause (c) or in clause (d) thereof, an amount equal to the whole of the sum or, as the case may be, sums of such nature plus fifty per cent of the balance of such aggregate; and
- (ii) in any other case, an amount equal to fifty per cent of the aggregate of the sums specified in sub-section (2).]

(2) The sums referred to in sub-section (1) shall be the following, namely:

(a) any sums paid by the assessee in the previous year as donations to—

- (i) the National Defence Fund set up by the Central Government; or
- (ii) the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August, 1964; or
- (iii) the Prime Minister's Drought Relief Fund; or
- (iia) the Prime Minister's National Relief Fund ²⁴[or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)]; or
- (iiaa) the Prime Minister's Armenia Earthquake Relief Fund; or
- (iiab) the Africa (Public Contributions - India) Fund; or
- (iib) the National Children's Fund; or
- (iic) the Indira Gandhi Memorial Trust, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of February, 1985; or
- (iid) the Rajiv Gandhi Foundation, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of June, 1991; or
- (iie) the National Foundation for Communal Harmony; or
- (iif) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or
- (iig) the Maharashtra Chief Minister's Relief Fund during the period beginning on the 1st day of October, 1993 and ending on the 6th day of October, 1993 or to the Chief Minister's Earthquake Relief Fund, Maharashtra; or
- (iiga) any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat; or
- (iih) any Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district for the purposes of improvement of primary education in villages and towns in such district and for literacy and post-literacy activities.

Explanation.—For the purposes of this sub-clause, "town" means a town which has a population not exceeding one lakh according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or

- (iiha) the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks.

Explanation.—For the purposes of this sub-clause,—

- (a) "National Blood Transfusion Council" means a society registered under the Societies Registration Act, 1860 (21 of 1860) and has an officer not below the rank of an Additional Secretary to the Government of India dealing with the AIDS Control Project as its Chairman, by whatever name called;
- (b) "State Blood Transfusion Council" means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India and has Secretary to the Government of that State dealing with the Department of Health, as its Chairman, by whatever name called; or
- (iihb) any fund set up by a State Government to provide medical relief to the poor; or

(iiihc) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or

(iiihd) the Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996; or

(iiihe) the National Illness Assistance Fund; or

(iiihf) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory, as the case may be :

Provided that such Fund is—

(a) the only Fund of its kind established in the State or the Union territory, as the case may be;

(b) under the overall control of the Chief Secretary or the Department of Finance of the State or the Union territory, as the case may be;

(c) administered in such manner as may be specified by the State Government or the Lieutenant Governor, as the case may be; or

(iiihg) the National Sports Fund to be set up by the Central Government; or

(iiihh) the National Cultural Fund set up by the Central Government; or

(iiihj) the Fund for Technology Development and Application set up by the Central Government; or

(iiihk) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); or

(iiihl) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013); or

(iiihm) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013 (18 of 2013); or

(iiihn) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(iv) any other fund or any institution to which this section applies; or

(v) the Government or any local authority, to be utilised for any charitable purpose other than the purpose of promoting family planning; or

(vi) an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;

(via) any corporation referred to in clause (26BB) of [section 10](#); or

(vii) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning;

(b) any sums paid by the assessee in the previous year as donations for the renovation or repair of any such temple, mosque, gurdwara, church or other place as is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States;

(c) any sums paid by the assessee, being a company, in the previous year as donations to the Indian Olympic Association or to any other association or institution established in India, as the Central Government may, having regard to the prescribed guidelines, by notification in the Official Gazette, specify in this behalf for—

(i) the development of infrastructure for sports and games; or

(ii) the sponsorship of sports and games,

in India;

(d) any sums paid by the assessee, during the period beginning on the 26th day of January, 2001 and ending on the 30th day of September, 2001, to any trust, institution or fund to which this section applies for providing relief to the victims of earthquake in Gujarat.

(3) [Omitted by the Finance Act, 1994, w.e.f. 1-4-1994.]

(4) Where the aggregate of the sums referred to in sub-clauses (iv), (v), (vi), (via) and (vii) of clause (a) and in clauses (b) and (c) of sub-section (2) exceeds ten per cent of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction

under any other provision of this Chapter), then the amount in excess of ten per cent of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).

(5) This section applies to donations to any institution or fund referred to in sub-clause (iv) of clause (a) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely:

(i) where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of [sections 11](#) and [12](#) or clause (23AA) or clause (23C) of [section 10](#) :

Provided that where an institution or fund derives any income, being profits and gains of business, the condition that such income would not be liable to inclusion in its total income under the provisions of [section 11](#) shall not apply in relation to such income, if—

- (a) the institution or fund maintains separate books of account in respect of such business;
- (b) the donations made to the institution or fund are not used by it, directly or indirectly, for the purposes of such business; and
- (c) the institution or fund issues to a person making the donation a certificate to the effect that it maintains separate books of account in respect of such business and that the donations received by it will not be used, directly or indirectly, for the purposes of such business;

(ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;

(iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;

(iv) the institution or fund maintains regular accounts of its receipts and expenditure;

(v) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956 (1 of 1956), or is a University established by law, or is any other educational institution recognised by the Government or by a University established by law, or affiliated to any University established by law, or is an institution financed wholly or in part by the Government or a local authority;

(vi) in relation to donations made after the 31st day of March, 1992, the institution or fund is for the time being ²⁵~~25a~~*[approved by the Commissioner in accordance with the rules* made in this behalf; and]*

(vii) where any institution or fund had been approved under clause (vi) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (15) of [section 2](#), be deemed to have been,—

- (a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and
- (b) approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;

(viii) & (ix) ²⁶~~26a~~****]*

Following clauses (viii) and (ix) shall be inserted after clause (vii) of sub-section (5) of section 80G by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021:

(viii) *the institution or fund prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed:*

Provided that the institution or fund may also deliver to the said prescribed authority, (a) correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed; and

(ix) *the institution or fund furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of donation, as may be prescribed:*

Provided that the institution or fund referred to in clause (vi) shall make an application in the prescribed form and manner to the Principal Commissioner or Commissioner, for grant of approval,—

- (i) where the institution or fund is approved under clause (vi) (as it stood immediately before its amendment by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020), within three months from the 1st day of April, 2021;
- (ii) where the institution or fund is approved and the period of such approval is due to expire, at least six months prior to expiry of the said period;
- (iii) where the institution or fund has been provisionally approved, at least six months prior to expiry of the period of the provisional approval or within six months of commencement of its activities, whichever is earlier;

(iv) in any other case, at least one month prior to commencement of the previous year relevant to the assessment year from which the said approval is sought:

Provided further that the Principal Commissioner or Commissioner, on receipt of an application made under the first proviso, shall,—

(i) where the application is made under clause (i) of the said proviso, pass an order in writing granting it approval for a period of five years;

(ii) where the application is made under clause (ii) or clause (iii) of the said proviso,—

(a) call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about—

(A) the genuineness of activities of such institution or fund; and

(B) the fulfilment of all the conditions laid down in clauses (i) to (v);

(b) after satisfying himself about the genuineness of activities under item (A), and the fulfilment of all the conditions under item (B), of sub-clause (a),—

(A) pass an order in writing granting it approval for a period of five years; or

(B) if he is not so satisfied, pass an order in writing rejecting such application and also cancelling its approval after affording it a reasonable opportunity of being heard;

(iii) where the application is made under clause (iv) of the said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought,

and send a copy of such order to the institution or fund:

Provided also that the order under clause (i), sub-clause (b) of clause (ii) and clause (iii) of the first proviso shall be passed in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which the application was received:

Provided also that the approval granted under the second proviso shall apply to an institution or fund, where the application is made under—

(a) clause (i) of the first proviso, from the assessment year from which approval was earlier granted to such institution or fund;

(b) clause (iii) of the first proviso, from the first of the assessment years for which such institution or fund was provisionally approved;

(c) in any other case, from the assessment year immediately following the financial year in which such application is made.

(5A) Where a deduction under this section is claimed and allowed for any assessment year in respect of any sum specified in sub-section (2), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.

(5B) Notwithstanding anything contained in clause (ii) of sub-section (5) and *Explanation 3*, an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply.

(5C) This section applies in relation to amounts referred to in clause (d) of sub-section (2) only if the trust or institution or fund is established in India for a charitable purpose and it fulfils the following conditions, namely:

(i) it is approved in terms of clause (vi) of sub-section (5);

(ii) it maintains separate accounts of income and expenditure for providing relief to the victims of earthquake in Gujarat;

(iii) the donations made to the trust or institution or fund are applied only for providing relief to the earthquake victims of Gujarat on or before the 31st day of March, 2004;

(iv) the amount of donation remaining unutilised on the 31st day of March, 2004 is transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, 2004;

(v) it renders accounts of income and expenditure to such authority and in such manner as may be prescribed, on or before the 30th day of June, 2004.

(5D) No deduction shall be allowed under this section in respect of donation of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash.

(5E) ²⁷***]

Following sub-section (5E) shall be inserted after sub-section (5D) of section 80G by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021:

(5E) All applications, pending before the Commissioner on which no order has been passed under clause (vi) of sub-section (5) before the date on which this sub-section has come into force, shall be deemed to be applications made under clause (iv) of the first proviso to sub-section (5) on that date.

(6) [***]

Explanation 1.—An institution or fund established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community or caste within the meaning of clause (iii) of sub-section (5).

Explanation 2.—For the removal of doubts, it is hereby declared that a deduction to which the assessee is entitled in respect of any donation made to an institution or fund to which sub-section (5) applies shall not be denied merely on either or both of the following grounds, namely :—

- (i) that, subsequent to the donation, any part of the income of the institution or fund has become chargeable to tax due to non-compliance with any of the provisions of [section 11](#), [section 12](#) or [section 12A](#);*
- (ii) that, under clause (c) of sub-section (1) of [section 13](#), the exemption under [section 11](#) or [section 12](#) is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (h) of sub-section (2) of [section 13](#) where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent of the capital of that concern.*

*Explanation 2A.— [27a](#) [***]*

Following *Explanation 2A* shall be inserted after *Explanation 2* of section 80G by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021:

Explanation 2A.—For the removal of doubts, it is hereby declared that claim of the assessee for a deduction in respect of any donation made to an institution or fund to which the provisions of sub-section (5) apply, in the return of income for any assessment year filed by him, shall be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed income-tax authority or the person authorised by such authority, subject to verification in accordance with the risk management strategy formulated by the Board from time to time.

Explanation 3.—In this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature.

Explanation 4.—For the purposes of this section, an association or institution having as its object the control, supervision, regulation or encouragement in India of such games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf, shall be deemed to be an institution established in India for a charitable purpose.

Explanation 5.—For the removal of doubts, it is hereby declared that no deduction shall be allowed under this section in respect of any donation unless such donation is of a sum of money.

Expenditure on scientific research

35. (1) In respect of expenditure on scientific research, the following deductions shall be allowed—

- (i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business.

Explanation.—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in *Explanation 2* below sub-section (5) of [section 40A](#)] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced ;

- (ii) an amount equal to one-and-one half times of any sum paid to a research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research:

Provided that such association, university, college or other institution for the purposes of this clause—

- (A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and
(B) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government:

Provided further that where any sum is paid to such association, university, college or other institution in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the sum so paid;

- (iia) any sum paid to a company to be used by it for scientific research:

Provided that such company—

- (A) is registered in India,
(B) has as its main object the scientific research and development,
(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and
(D) fulfils such other conditions as may be prescribed;

- (iii) any sum paid to a research association which has as its object the undertaking of research in social science or statistical research or to a university, college or other institution to be used for research in social science or statistical research :

Provided that such association, university, college or other institution for the purposes of this clause—

- (A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and
(B) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government.

Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to a research association, university, college or other institution to which clause (ii) or clause (iii) ⁶³~~63a~~ [to which clause (ii) or clause (iii)] applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in ^{63b}~~63c~~ [clause (ii) or clause (iii)] has been withdrawn;

- (iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (2) :

Provided that the research association, university, college or other institution referred to in clause (ii) or clause (iii) shall make an application in the prescribed form and manner to the Central Government for the purpose of grant of approval, or continuance thereof, under clause (ii) or, as the case may be, clause (iii) :

Provided further that the Central Government may, before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information from the research association, university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the research association, university, college or other institution and that Government may also make such inquiries as it may deem necessary in this behalf :

Provided also that any notification issued, by the Central Government under clause (ii) or clause (iii), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President[†], shall, at any one time, have effect

for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:

Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under clause (ii) or clause (iii) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government:

⁶⁴***]

Following fifth and sixth provisos shall be inserted after fourth proviso to sub-section (1) of section 35 by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021:

Provided also that every notification under clause (ii) or clause (iii) in respect of the research association, university, college or other institution or under clause (iia) in respect of the company issued on or before the date on which this proviso has come into force, shall be deemed to have been withdrawn unless such research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) makes an intimation in such form and manner, as may be prescribed, to the prescribed income-tax authority within three months from the date on which this proviso has come into force, and subject to such intimation the notification shall be valid for a period of five consecutive assessment years beginning with the assessment year commencing on or after the 1st day of April, 2022:

Provided also that any notification issued by the Central Government under clause (ii) or clause (iia) or clause (iii), after the date on which the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Bill, 2020 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding five assessment years as may be specified in the notification.

(1A) ^{64a}***]

Following sub-section (1A) shall be inserted after sub-section (1) of section 35 by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, w.e.f. 1-4-2021:

(1A) Notwithstanding anything contained in sub-section (1), the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) shall not be entitled to deduction under the respective clauses of the said sub-section, unless such research association, university, college or other institution or company—

(i) prepares such statement for such period as may be prescribed and deliver or cause to be delivered to the said prescribed income-tax authority or the person authorised by such authority such statement in such form, verified in such manner, setting forth such particulars and within such time, as may be prescribed:

Provided that such research association, university, college or other institution or the company may also deliver to the prescribed authority a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under this sub-section in such form and verified in such manner as may be prescribed;

(ii) furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of sum, as may be prescribed.

(2) For the purposes of clause (iv) of sub-section (1),—

(i) in a case where such capital expenditure is incurred before the 1st day of April, 1967, one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous year; and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years ;

(ia) in a case where such capital expenditure is incurred after the 31st day of March, 1967, the whole of such capital expenditure incurred in any previous year shall be deducted for that previous year :

Provided that no deduction shall be admissible under this clause in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after the 29th day of February, 1984.

Explanation 1.—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced.

Explanation 2.—For the purposes of this clause,—

(a) "land" includes any interest in land ; and

(b) the acquisition of any land shall be deemed to have been made by the assessee on the date on which the instrument of transfer of such land to him has been registered under the Registration Act, 1908 (16 of 1908), or where he has taken or retained the possession of such land or any part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), the date on which he has so taken or retained possession of such land or part ;

(ii) notwithstanding anything contained in clause (i), where an asset representing expenditure of a capital nature incurred before the 1st day of April, 1967, ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (i) falls short of the said expenditure, then—

(a) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(b) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year ;

(iii) if the asset mentioned in clause (ii) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation ; and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place ;

(iv) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under clause (ii) of sub-section (1) of [section 32](#) for the same or any other previous year in respect of that asset ;

(v) where the asset mentioned in clause (ii) is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under clause (ii) of sub-section (1) of [section 32](#).

(2A) Where, before the 1st day of March, 1984, the assessee pays any sum (being any sum paid with a specific direction that the sum shall not be used for the acquisition of any land or building or construction of any building) to a scientific research association or university or college or other institution referred to in clause (ii) of sub-section (1) or to a public sector company to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, then,—

(a) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid ; and

(b) no deduction in respect of such sum shall be allowed under clause (ii) of sub-section (1) for the same or any other assessment year.

Explanation.—For the purposes of this sub-section, "public sector company" shall have the same meaning as in clause (b) of the *Explanation* below sub-section (2B) of [section 32A](#).

(2AA) Where the assessee pays any sum to a National Laboratory or a University or an Indian Institute of Technology or a specified person with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority, then—

(a) there shall be allowed a deduction of a sum equal to one and one-half times the sum so paid ; and

(b) no deduction in respect of such sum shall be allowed under any other provision of this Act :

Provided that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General in such form as may be prescribed:

Provided further that where any sum is paid to such National Laboratory or university or Indian Institute of Technology or specified person in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this sub-section shall be equal to the sum so paid.

Explanation 1.—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

(a) such Laboratory, or specified person has been withdrawn; or

(b) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.

Explanation 2.—For the purposes of this section,—

(a) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed ;

(b) "University" shall have the same meaning as in *Explanation* to clause (ix) of [section 47](#) ;

(c) "Indian Institute of Technology" shall have the same meaning as that of "Institute" in clause (g) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961);

(d) "specified person" means such person as is approved by the prescribed authority.

(2AB)(1) Where a company engaged in the business of bio-technology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and one-half times of the expenditure so incurred:

Provided that where such expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility is incurred in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the expenditure so incurred.

Explanation.—For the purposes of this clause, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).

(2) No deduction shall be allowed in respect of the expenditure mentioned in clause (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under clause (1) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General in such form and within such time as may be prescribed.

(5) [***]

(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.

(2B)(a) Where, before the 1st day of March, 1984, an assessee has incurred any expenditure (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provisions of this sub-section, be allowed a deduction of a sum equal to one and one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(b) Where a deduction has been allowed under clause (a) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (i) of sub-section (1) or clause (ia) of sub-section (2) for the same or any other previous year.

(c) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under clause (ii) of sub-section (1) of [section 32](#) for the same or any subsequent previous year.

(d) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (5B) of [section 155](#) shall apply accordingly.

(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to—

(a) the Central Government, when such question relates to any activity under clauses (ii) and (iii) of sub-section (1), and its decision shall be final;

(b) the prescribed authority, when such question relates to any activity other than the activity specified in clause (a), whose decision shall be final.

(4) The provisions of sub-section (2) of [section 32](#) shall apply in relation to deductions allowable under clause (iv) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation.

(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing expenditure of a capital nature on scientific research,—

(i) the amalgamating company shall not be allowed the deduction under clause (ii) or clause (iii) of sub-section (2); and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.