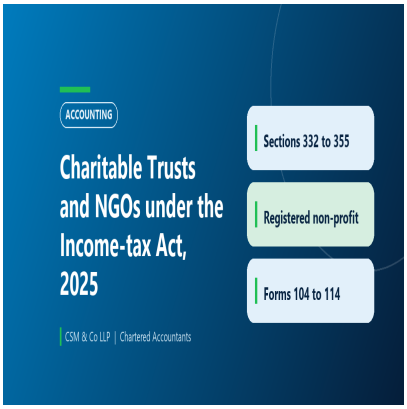



# Charitable Trusts and NGOs under the Income-tax Act, 2025: Registration, Exemption and Compliance (Tax Year 2026-27)

## Description

Last updated: 10 September 2026 · Written and reviewed by CA Meet Dhrangadhariya, CSM & Co LLP

**Quick summary**

- From 01/04/2026 a trust, society or section 8 company claims its tax benefit as a “registered non-profit organisation” under sections 332 to 355 of the Income-tax Act, 2025 (the old sections 11, 12, 12A, 12AB and 13).
- Registration is applied for in Form 104 (provisional) or Form 105, and the order in Form 106 carries a 16 digit Unique Registration Number.
- Regular income is taxed only on the part of 85% that is not applied or accumulated; specified income such as anonymous donations and benefits to related persons is taxed at 30%.
- Books (Rule 187), audit in Form 112 and the return in ITR-7 are compulsory when income before the exemption exceeds the maximum amount not chargeable to tax.
- Donors’ deduction needs a separate approval under section 354, Form 113 by 31 May and Form 114 donation certificates.

A charitable trust, a society or a section 8 company does not pay tax on its charitable income, but only if it is registered and follows a set of conditions. From 01/04/2026 those rules sit in **sections 332 to 355 of the Income-tax Act, 2025**, in a scheme that replaces the old sections 11, 12, 12A, 12AB and 13. The law calls such a body a **registered non-profit organisation**. This post follows the new Act and the Income-tax Rules, 2026, and explains where the old form numbers have gone.

## Where the old sections have gone

| Old (1961 Act) | New (2025 Act and Rules 2026) |
|---|---|
| Sections 12A and 12AB (registration), Forms 10A and 10AB | Section 332; Form 104 (provisional) and Form 105 (all other cases); order in Form 106 (Rule 181) |

| Old (1961 Act) | New (2025 Act and Rules 2026) |
|---|---|
| Sections 11 and 12 (exemption of property income and voluntary contributions) | Sections 334 to 343 (regular income, 85% application, accumulation) |
| Section 11(1)(d) (corpus donations) | Sections 339 and 340 |
| Section 13 (denial of exemption) | Sections 337 (specified income), 351 (specified violation), 353 (other violations) |
| Tax on accreted income (section 115TD) | Section 352 |
| Section 80G approval | Section 354 (approval for donor deduction under section 133(1)(b)(ii)) |
| Form 10B and 10BB (audit report) | Form 112 (Rule 188) |
| Form 10 and 9A (accumulation, option) | Forms 109 and 108 (Rules 185 and 184) |
| Forms 10BD and 10BE (donation statement and certificate) | Forms 113 and 114 (Rule 190) |

Section 11 of the 2025 Act is **not** the trust section: it is the general list of exempt income in Schedules II to VII. The older notes that call it the trust exemption refer to the 1961 Act.

## Who can register (section 332)

The following may apply: a public trust, a society, a section 8 company, a university or an educational institution affiliated to it or recognised by the Government, an institution financed wholly or partly by the Government or a local authority, and certain bodies listed in Schedules III and VII. To be eligible the applicant must be constituted in India for one or more **charitable purposes** (section 2(23): relief of the poor, education, yoga, medical relief, preservation of environment, preservation of monuments or places of artistic or historic interest, and advancement of any other object of general public utility) or public religious purposes, and its properties must be held under an **irrevocable trust** for the benefit of the general public.

### Forms, time limits and validity

Applications are filed electronically in **Form 104** (provisional registration, to the Commissioner, CPC) or **Form 105** (to the jurisdictional Principal Commissioner or Commissioner). The order in Form 106 carries a 16 digit **Unique Registration Number (URN)**.

| Case (section 332(3)) | When to apply | Order within | Valid for |
|---|---|---|---|
| 1. Activities not started, never registered | Any time in the tax year from which registration is sought | One month from the end of the month | Three tax years |

| Case (section 332(3)) | When to apply | Order within | Valid for |
|---|---|---|---|
| 2. Activities started, never registered | Any time in the tax year from which registration is sought | Six months from the end of the quarter | Five tax years |
| 3. Provisional registration, activities started | Within six months of commencement | Six months from the end of the quarter | Five tax years |
| 4. Provisional registration about to expire, activities not started | At least six months before expiry | Six months from the end of the quarter | Five tax years |
| 5. Registration about to expire | At least six months before expiry | Six months from the end of the quarter | Five tax years |
| 6. Registration inoperative after a switch of regime | Any time in the tax year from which it is to operate | Six months from the end of the quarter | Five tax years |
| 7. Objects modified so that they no longer fit the registration | Within thirty days of the modification | Six months from the end of the quarter | Five tax years |

If the total income (without the benefit of this Part) did not exceed **?5 crore in each of the two preceding tax years**, the validity in cases 3 to 7 becomes **ten years** (section 332(5)). A late application can be condoned for reasonable cause (section 332(4)); if it is not, tax on accreted income can follow (section 332(6)). A trust that held registration before 01/04/2021 and let it lapse can ask for condonation under section 332(9).

## How the income is taxed

The tax is the total of two parts (section 334): **30%** on “specified income”, and the normal rate on taxable regular income and residual income.

1. **Regular income** (section 335) is income from the charitable or religious activity, income from property, deposits or investments held for those purposes, voluntary contributions and the gains of permitted commercial activity. Corpus donations are left out (section 338(b)).
2. **Taxable regular income** (section 336) is nil if 85% or more of the regular income is applied under section 341 or accumulated under section 342. If less is applied, the tax falls on 85% of the regular income reduced by the amount applied or accumulated.
3. **Specified income** (section 337) is taxed at 30% in the year shown in the table of that section. It includes:
   - anonymous donations, except those up to ?1,00,000 or 5% of total donations (whichever is higher), and except for bodies set up wholly for religious purposes or wholly for charitable and religious purposes (with a carve-out for donations directed to a university, other educational institution, hospital or medical institution that the body runs);
   - income applied directly or indirectly for the benefit of a related person (Rule 183);
   - income applied outside India (other than as the Board allows under section 338(a));

- investments outside the permitted modes in Schedule XVI (section 350);
- income applied for a purpose other than the one for which it is registered, and accumulated income that is misapplied, not applied in time, or paid to another organisation.

4. **Residual income** is any other income, taxed at the normal rate (section 355(j)).

### What counts as application (section 341)

- Sums paid in India for the charitable or religious purpose in the year, and 85% of a donation to another registered non-profit organisation. Cash payments above the limits in sections 35(b)(i) and 36(4) to (7) do not count.
- Repayment of a loan or re-deposit of a corpus withdrawal within five years can count as application, subject to the conditions in section 341(2).
- A claim of depreciation on an asset whose cost was already counted as application is not allowed again (section 341(3)(a)).
- If the regular income applied is below 85%, the shortfall can be treated as **deemed application** by opting in **Form 108** by the due date of the return, and then it must be applied in India in the tax year of receipt or the next one (section 341(5) to (7), Rule 184).
- Capital gains on a charitable asset are treated as applied if the net consideration is invested in another such asset (section 341(9)).

### Accumulation (section 342) and the 15% balance (section 343)

Income can be set apart for up to **five years** by filing a statement in **Form 109** by the due date of the return. The accumulated money must be held in the modes in Schedule XVI. A change of purpose needs an application in **Form 110** (order in Form 111). The 15% of regular income that is neither applied nor accumulated is deemed accumulated income and must also be held in permitted modes (section 343).

### Business income

A registered non-profit organisation must not carry on commercial activity unless it is **incidental to its objects** and separate books are kept (section 345). A body whose objects are in the nature of “advancement of any other object of general public utility” may earn at most **20% of its total receipts** from commercial activity, and only in the course of that object (section 346). The gain from such activity is worked out as if the activity were a separate entity (Rule 182). Where a business undertaking is part of the trust property, the Assessing Officer can determine its income (section 344).

## Compliance every year

| Item | Rule | Detail |
|---|---|---|
| Books of account | Section 347, Rule 187 | Cash book, ledger, journal, bills and receipts, plus records of every project and institution, of each type of income and of specified and residual income |
| Audit | Section 348, Rule 188 | Report in **Form 112**, one month before the due date of the return (so 30 September when the return date is 31 October) |
| Return | Section 349, Rule 164(10) | **ITR-7**, within the time in section 263(1)(c), or the extended period in section 263(4) after Finance Act 2026 |

| Item | Rule | Detail |
|---|---|---|
| Option and statements | Rules 184 and 185 | Form 108 (deemed application) and Form 109 (accumulation), both by the return due date |

Books, audit and return are required when the total income, without giving effect to this Part, exceeds the maximum amount not chargeable to income tax in the year. Missing any of the three, or a commercial activity that breaks section 346, makes the whole regular income taxable (less allowed expenditure in India for the objects) under section 353.

## Violations and accreted income

A **specified violation** (section 351) includes applying income other than for the objects, commercial activity in breach of section 345, application for private religious purposes, benefits for a particular religious community or caste (for bodies created after commencement of the Act), activity that is not genuine, non-compliance with another law that has been finally held against the body, and false information in the application. The Commissioner can cancel the registration for that and all later years, after a hearing, within six months from the end of the quarter in which the first notice is issued.

**Tax on accreted income** (section 352) is charged at the maximum marginal rate on the market value of all assets less all liabilities (valued under Rule 189), after removing specified assets. It arises when registration is cancelled, when objects are changed and do not fit, when the body fails to apply for renewal, when it converts into a form that cannot be registered, when it merges with an entity that does not fit the rules (as amended by Finance Act 2026) or when assets are not transferred to another registered non-profit organisation within twelve months of dissolution. A merger with another registered non-profit organisation of the same or similar objects, meeting the prescribed conditions, is outside section 352 (section 354A).

## Donor deduction (section 354)

Registration alone does not give donors a deduction. A registered non-profit organisation applies separately for **approval** under section 354 (approval for section 133(1)(b)(ii)), using Form 104 or Form 105 with the same time limits and validity as registration. The conditions include: no benefit for a particular religious community or caste, religious expenditure not above **5%** of total income, no transfer of assets to a non-charitable purpose, regular accounts, and a donor certificate. The body must furnish the **statement of donations in Form 113** and issue the **certificate in Form 114** by **31 May** after the financial year in which the donation is received (Rule 190).

## Practical checklist

1. Note the expiry of your registration and approval; file the renewal at least six months earlier.
2. Plan the year so that at least 85% of regular income is applied or accumulated; file Form 108 or Form 109 before the return date.
3. Keep corpus donations in a separate, permitted investment.
4. Check every related person transaction (trustees, relatives, founders, donors above ?1,00,000 in a year or ?10 lakh in aggregate).
5. File Form 112 and the return on time; file Form 113 and issue Form 114 by 31 May.

## How CSM & Co LLP can help

We handle registration and renewal applications, yearly audit reports, ITR-7 filing and donor-approval compliance for trusts, societies and section 8 companies. Please reach out to our team and we will be happy to assist.

## Frequently asked questions

### Which section of the new Act replaces sections 11 and 12A for charitable trusts?

Chapter XVII, Part B (sections 332 to 355) of the Income-tax Act, 2025. Section 332 deals with registration, sections 334 to 343 with the taxation of income, and sections 347 to 349 with books, audit and return. Section 11 of the 2025 Act is a different section: it is the general list of exempt income (Schedules II to VII).

### Does an existing 12A or 12AB registration continue?

The 2025 Act refers to registration under any “specified provision”, and a person with a valid registration that has not been cancelled is a registered non-profit organisation (section 355(g)). Check the expiry date on your registration order, because renewal is due at least six months before it ends (section 332(3), Table Sl. No. 5).

### How much of the income must a trust spend?

Taxable regular income is nil if 85% or more of the regular income is applied for charitable or religious purposes (section 341) or accumulated under section 342. Otherwise the shortfall below 85% is taxed (section 336). A shortfall can be treated as deemed application by opting in Form 108, and then must be applied in India within the time in section 341(6).

### Is an audit compulsory?

Yes, when total income without giving effect to this Part exceeds the maximum amount not chargeable to income tax in the year (section 348). The report is in Form 112, due one month before the due date of the return (Rule 188). The return is ITR-7 (section 349, Rule 164(10)).

### Can a trust run a business?

Only if the activity is incidental to its objects and separate books are kept (section 345). A trust whose object is “any other object of general public utility” may earn at most 20% of its total receipts from commercial activity, and only in the course of carrying out that object (section 346).

### What happens if registration is cancelled?

The organisation becomes liable to tax on accreted income at the maximum marginal rate, which is the market value of its assets less its liabilities, payable within fourteen days of the due date in the table in section 352(4). The same tax can arise on a change of objects, a merger with an ineligible entity or a failure to transfer assets on dissolution.

## Official sources

- Income Tax Department: Income-tax Act, 2025 (sections 2(23), 332 to 355, Schedule XVI)
- Income Tax Department: Income-tax Rules, 2026 (Rules 164, 181 to 190)

## Related reading

- Which ITR Form to File: ITR-1 to ITR-7 and ITR-UN Under Rule 164 (Tax Year 2026-27)
- Decoding the Direct Tax Landscape: Budget 2025 Insights
- Section 80G and 80GGA: Deduction for Donations, Limits and How to Claim

## Disclaimer

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meetsoni