

Amendments to taxation of Charitable & Religious Trusts by Finance Act 2021 and 2022.

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Word Trust or institution- word trust or institution used in this presentation shall mean and include public trusts, societies formed and registered under the Societies Registration Act 1860, Section 8 companies and other eligible funds and institutions.

PART A. Amendments made by Finance Act 2021 to Income-tax Act

Major amendments to Sec.11

w.e.f. A.Y. 2022-23

1. Corpus donation to be deposited/invested as per Sec. 11(5) :

In clause (d) i.e. sec.11(1) (d) which relates to non- taxability / exemption of corpus donation, condition is added to say that corpus donation will have to be invested/deposited in one or more forms or modes specified in sec. 11(5) maintained specifically for such corpus.

Therefore amount of corpus donation will have to be invested/ deposited in earmarked investment/fund. No time limit is mentioned for making such investment/deposit. One has to presume that such investment should be made before end of the relevant Financial Year (previous year).

2. Amount spent out of corpus donation not to be treated as application:

In Sec. 11(1) after existing Explanation: 3 following Explanation: 4 is inserted to clarify that:

For the purpose of determining amount of application as per Sec. 11(1) (a) / (b) -

Application for charitable / religious purpose out corpus donation shall not be treated as application. However when the amount (not so treated as application) is subsequently invested / deposited back in one or more forms / modes specified in Sec. 11(5) maintained specifically for such corpus it shall be treated as application to the extent of investment / deposit in the year of investment/deposit.

3. Any amount applied out of loan/ borrowing shall not be treated as application :

However when such loan/ borrowing is repaid, in the year of repayment it shall be treated as application to the extent of amount repaid.

4 . Excess application of earlier years will not be allowed to be set off against income of subsequent Years. After Explanation: 4 new Explanation: 5 is inserted to clarify this.

Amendments to sec. 10 (23C)

w.e.f. A.Y. 2022-23

1. Limit of aggregate annual receipts raised to Rs. 5 cr. raised from existing Rs. 1cr for trust, institutions falling under sub-clauses (iiid) and (iiiae) of section 10 (23C) :

As per original sub-clause (iiid) -

University or other educational institution existing solely for educational purpose and not for profit if its aggregate annual receipts during the year do not exceed Rs. 1cr. its income was exempt without any condition for registration / approval from CIT.

Only requirement was such university or educational institution should file return of income as per sec.139 (4C) if the total income of such university/educational institution exceeds maximum amount not chargeable to tax on or before the due date as specified u/s.139 (1).

Now w.e.f. 1/4/2022 limit of Rs. 1cr. is raised to Rs. 5cr.

Therefore w.e.f. A.Y. 2022-23 such university/educational institution files its income tax return as per due date as specified u/s.139 (1) it can claim benefit of exemption.

Similar is the case in respect of hospitals/institutions covered under sec. 10(23C) (iiiae) which are existing solely for philanthropic purpose and not for the purpose of profit.

By explanation it is clarified that limit of Rs. 5 cr. is overall limit for trust/institutions falling under both the sub-clauses.

2. Investment of corpus donation - 3rd Proviso Amended – earlier condition of investment / deposit in specified forms/modes was not applicable to corpus donation.

Now as per amended Explanation: 1 - Amount received by way of corpus donation by trust, institution covered under sec.10 (23C) sub-clauses (iv) (v) (vi) (via) will have to be

invested/deposited in specified forms/mode as specified in sec. 11(5) to claim exemption for corpus donation (to claim that such corpus donation is not to be included in income). Investment should be specifically of such corpus donation.

Therefore amount of corpus donation will have to be kept invested/ deposited in earmarked investment/fund. No time limit is mentioned for making such investment/deposit. One has to presume that such investment should be made before end of the Financial Year (previous year) .

3. Application out of corpus donation shall not be treated as application:

As per Explanation 2 in 3rd proviso - Application out of corpus donation shall not be treated as application for charitable or religious purpose.

However when amount - which was earlier not treated as application - shall be treated as application when such amount is invested or deposited back into one or more forms/modes specified in sec. 11(5).

4 . Any amount spent out of loan/ borrowing shall not be treated as application but when loan is repaid amount repaid will be treated as application in the year of repayment to the extent of repayment.

5 . Excess application of earlier years will not be allowed to be set off against income of subsequent Years. After 20th proviso:- Existing explanation shall be numbered as Explanation 1 and new Explanation: 2 - is inserted to clarify this.

PART B – Amendments made by Finance Act 2022

Several amendments are made which are effective from different dates-

As stated in explanatory memorandum to Budget 2022-

“Rationalisation of the provision of Charitable Trust and Institutions...

...The exemption to these trusts or institutions is available under the two regimes.

- i) Regime for any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub – clause (iv) or (v) or (vi) or (via) of clause (23C) of section 10 (referred to as trust or institution under first regime); and
- ii) Regime for the trusts registered under section 12AA/12AB (referred to as trust or institution under the second regime).

In the Finance Bill, it is proposed to rationalise the provisions of the both the exemption regimes by–

- (I) ensuring their effective monitoring and implementation;
- (II) bringing consistency in the provisions of the two exemption regimes; and
- (III) providing clarity on taxation in certain circumstances.

Some consequential amendments are also proposed following the amendments of past few years.”

Amendments by Finance Act 2022

Amendment to sec. 11(1)

1. Option to treat voluntary contribution as corpus donation in certain cases:-

A new explanation 3A is inserted in sub-sec. (1)

as per this explanation - where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under 80G (2) cl. (b) any sum received by such trust/institution as voluntary contribution for the purpose of renovation / repair of such temple, mosque, gurdwara or other place notified - may at the option of such trust or institution be treated as forming part of the corpus of such trust / institution,

subject to condition that such trust / institution:-

- (a) applies such corpus only for purpose for which contribution is made ;
- (b) does not apply such corpus for making contribution / donation to any person;
- (c) maintains such corpus as separately identifiable ;
- (d) invests or deposits such corpus in the forms and modes specified u/s. 11 (5).

When any of the condition as stated above is violated:

... as per new explanation 3B - inserted in sub - sec. (1)

where such voluntary contribution is treated as forming part of the corpus - and subsequently any of the condition specified in cl.(a) (b) (c) (d) of expl. 3A is violated such sum shall be deemed to be income of such trust / institution of the previous year during which violation takes place.

Applicable w. r. e. f. 01-04-2021 A.Y. 2021-22

cross ref. - "Sec.80G (2)(b) - any sum paid by the assessee in the previous year as donation 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 , archeological or artistic importance or to be a place of public worship of renown throughout any State or States; "

2. Amount accumulated or set apart as per sec. 11(2) has to be utilized for purpose for which accumulated or set apart within 5 years / or period of accumulation:-

Sec. 11 (3) is amended to the effect -

a) Amount accumulated / set apart for period not exceeding 5 year has to be utilized in period specified and cannot be utilized for purpose for which accumulated or set apart in 6th year / year immediately following expiry of the period of accumulation.

Applicable w. e. f. 01-04-2023 A.Y. 2023-24.

b) Also sub - section is further amended - to clarify year in which amount accumulated or set apart shall be deemed as income of such person-

This amendment says amount accumulated or set apart shall be deemed as income of such person of the previous year -

- i. in which it is applied to charitable or religious purposes other than for which it was accumulated or,
- ii. in which it ceases to be accumulated or set apart for such purposes or,
- iii. in which it ceases to remain invested or deposited in forms or modes specified in sec. 11(5) or,
- iv. in which it is credited or paid to any trust / institution registered u/s. 12AA or 12AB or to any fund or institution or trust or university or other educational institution or hospital or any other medical institution referred to in sec. 10(23C) sub-clauses (iv) (v) (vi) (via) or

- v. being the last previous year of period of accumulation for which it was accumulated but is not utilized.

Applicable w. e. f. 01-04-2023 A.Y. 2023-24

3. Application of income will be allowed on actual payment basis only and not when provision is made :

Explanation is inserted after sub-sec. (7) of sec. 11 to state that-

For the purpose of sec. 11 any sum payable by any trust or institution shall be considered as application in the previous year in which sum is actually paid (irrespective of the previous year in which the liability to pay such sum was incurred by the trust according to the method of accounting regularly followed by the trust).

Applicable w. e. f. 01-04-2022 A.Y. 2022-23

4. Condition for maintaining books of account and other document added for claiming exemption u/s. 11 and 12 :

Amendment in sec. 12A.

In sec. 12A(1) cl. (b) is substituted - to state that -

where total income of the trust or institution as computed under the act without giving effect to the provisions of sec. 11 and 12 exceeds the maximum amount not chargeable to income-tax in any previous year -

- i. trust or institution has to keep and maintain books of account and other documents in such form and manner and at such place as may be prescribed and
- ii. the accounts to be audited and audit report to be furnished before the specified date referred to in sec. 44AB.

Applicable w.e.f. 01-04-2023 A.Y. 2023-24

5. Cancellation of registration -

As stated in Explanatory Memorandum to Budget 2022-

The following issues related to the process of approval or registration, or cancellation or withdrawal thereof, have been noticed, namely:-

- i) Registration or approval of non-genuine trusts or institution under automated approval system:

The provisional registrations or provisional approval or re-registrations or approvals in certain cases, under these clauses, are granted in an automated manner and the respective rules have been amended accordingly. It is essential to ensure that non-genuine trusts or institutions do not get exemption provided by these provisions....

Amendment to Sec. 12AB - ss (4) and (5) are substituted w.e.f. 01-04-2022 to provide that-

- where registration / provisional registration is granted under sec. 12AB / 12AA and subsequently-

- a. Pr. CIT / CIT notices one / more specified violation during any previous year;
or
- b. Pr. CIT / CIT has received reference from A. O. under 2nd proviso to sec. 143 (3) as AO is satisfied that Fund or institution approved/provisionally approved u/s. 10(23C) or registered / provisionally registered u/s. 12AB has committed specified violation ; or
- c. such case has been selected in accordance with the risk management strategy formulated by the Board from time to time, for any previous year.

Pr. CIT / CIT shall -

- i. call for such document / information from trust or institution or make such inquiry as he thinks necessary to satisfy himself about occurrence / non-occurrence of specified violation;
- ii. after giving reasonable opportunity of being heard pass order in writing cancelling registration for such previous year and subsequent previous years, if he is satisfied that one or more specified violation have taken place;
- iii. pass an order in writing refusing to cancel the registration if he is not satisfied about occurrence of one or more specified violation;
- iv. forward copy of order to AO and to the trust / institution.

Expl - Specified violation-

- a) **income derived from property held under trust is applied , other than for the objects of the trust / institution ; or**
- b) **trust / institution has income from business which is not incidental to the attainment of object of the trust OR business is incidental but separate books of account are not maintained by such trust / institution ; or**
- c) trust/institution has applied its income to private religious purposes; or
- d) trust/ institution established for charitable purpose created or established after 01-04-1962 applied its income for benefit of particular religious community/ caste
- e) any activity carried on by trust /institution -
 - i. is not genuine or
 - ii. **is not being carried out in accordance with all or any of the condition subject to which it was registered**
- f) trust has not complied with the requirements of any other law as are material for the purpose of achieving its objects - and order / direction / decree

holding non-compliance has occurred is either not disputed / has attained finality.

Time limit for passing order- Pr. CIT /CIT shall pass such order within 6 months from the end of the quarter in which the first notice is issued by Pr. CIT / CIT on or after 01-04-2022, calling for any document / information or for making enquiry in this connection.

Applicable w.e.f. 01-04-2022

6. Amendment to Sec. 13 w.e.f 01-04-2023 A.Y. 2023-24

New sub-sections (10) & (11) inserted as follows:-

New ss. (10) How income chargeable to tax to be computed in specified cases

It states that-

- Where provision of sub-sec. (8) of sec. 13 are applicable to any trust (i.e. proviso to sec. 2(15) is attracted and benefit of exemption u/s. 11 and 12 is denied to trust) or

It violates conditions specified under cl. (b) or cl. (ba) of sec 12A (1) i.e.

- it does not maintain books of account or
- does not get books audited / fails to furnish audit report as per sec. 12A(1) (b) or
- fails to furnish return of income in accordance with the provision of Sec. 139 (4A) within time allowed under Section 139.

When its income exceeds maximum amount not chargeable to tax without claiming exemption u/s. 11 and 12-

It's income chargeable to tax shall be computed -

after allowing expenditure (only revenue expenditure and not capital expenditure) incurred in India for the objects of the trust/institution,

subject to condition that-

- a. Such expenditure is not from corpus standing to credit of trust or institution as on the last date of financial year immediately preceding the relevant previous year ;
- b. such expenditure is not from any loan / borrowing ;
- c. depreciation is not claimed where cost of acquisition of asset is claimed as application;
- d. expenditure is not in the form of any contribution or donation to any person

Explanation- for determining expenditure under this sub section provisions of Sec. 40(a) (ia), 40A (3), 40A(3A) shall mutatis mutandis apply as they apply in computing business income .

New sub-sec. (11) states that for computing income u/s. 13(10) no deduction in respect of any expenditure/ allowance/ set-off of any loss under any other provision of the Act shall be allowed.

Tax will be chargeable at normal rate.

7. New Section 115BBI inserted to provide for tax @ 30% on specified income of trust/ institution - In case of fund or institution, hospital education institution referred to in section 10(23C) sub clause (iv), (v),(vi),(via) or trust or institution referred to in section 11 includes any income by way of any specified income, tax payable shall be aggregate of-

- (i) 30% on specified income, and
- (ii) normal tax on other income

No deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any provision of the act in computing the specified income.

Explanation - for the purpose of this section "specified income" means -

- a) **income accumulated or set apart in excess of 15% of the income where such accumulation is not allowed under any specific provision of the Act; or**
- b) **deemed income referred to in Explanation 4 to the 3rd proviso to clause (23C) of section 10, or of the section 11 sub-sec. (1B) or sub-sec. (3); (i.e. income is accumulated or set apart for application in subsequent years but conditions for accumulation or investment or utilization etc. not fulfilled) , or**
- c) any income which is not exempt on account of violation of the provisions of clause (b) of the 3rd proviso of sec. 10 (23C) or not excluded from the total income under section 13 (1)(d); or
- d) any income which is deemed to be income under the 21st proviso to section 10 (23C) or which is not excluded from the total income under section 13 (1) (c); or
- e) **any income which is not excluded from the total income under section 11 (1) (c).**

Specified income will be liable to tax @30% +SC (as applicable) +Cess

applicable w.e.f. 01-04-2023 A.Y. 2023-24

8. Section 271AAE inserted to provide for penalty where income is applied to benefit of specified persons:-

If during any proceedings under this Act it is found that any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in section 10(23C) sub-clauses (iv) (iv) (v) (via) has violated the provisions of the 21st proviso to section 10 (23C), or

any trust or institution referred to in section 11 has violated the provisions of section 13(1) clause (c) as the case may be,

the Assessing Officer may direct that such person shall pay by way of penalty –

- a) a sum equal to the 100% of the amount of income applied directly or indirectly, by such person, for the benefit of any person referred to in sec. 13 (3) , where the violation is noticed for the first time during any previous year; and
- b) a sum equal to 200% of the amount of income of such person applied, directly or indirectly, by such person, for the benefit of any person referred to in section 13 sub-sec. (3), where the violation is noticed again in any subsequent previous year.

This penalty is in addition to any other penalty (if any) leviable.

Applicable w.e.f. 01-04-2023

9. Amendments to sec. 10 (23C)

i. Option to treat voluntary contribution as corpus -

In the 3rd proviso - w.e.f. 01-04-2021 after Explanation 1, Explanations 1A and 1B inserted as follows-

New Explanation 1A - where property held under a trust or institution referred to in sub-clause (v)(i.e 10(23C)(v) includes any temple, mosque, gurdwara , church or other place notified under 80G (2) cl. (b) any sum received by such trust or institution as voluntary contribution for the purpose of repair/ renovation of such temple, mosque etc. may at the option of such trust or institution be treated as forming part of the corpus of such trust or institution subject to condition that such trust or institution-

- a) applies such corpus only for the purpose for which contribution is made;
- b) does not apply such corpus for making contribution / donation to any person;
- c) maintains such corpus as separately identifiable; and
- d) invest or deposits such corpus in the forms and modes specified u/s. 11(5)

New Explanation 1B inserted in 3rd proviso-

where such voluntary contribution is treated as forming part of the corpus and subsequently any of the conditions specified in clause (a) or (b) or (c) or (d) of Expl. 1A is violated such sum shall be deemed to be income of such trust or institution of the previous year during which violation takes place.

ii. In the 3rd proviso - after Explanation 2 -
w.e.f. 01-04-2023 A.Y. 2023-24

Explanations 3, 4 and 5 are inserted as follows-

Where 85% of income is not applied to the objects for which it is established-

As per new Explanation 3 - Statement to be furnished to the A.O.

where 85% of its income received during the previous year is not applied, wholly and exclusively to the objects for which such trust, institution, university, educational institution, hospital, medical institution referred to in sub-clause (iv) (v) (vi) (via) is established but such income is accumulated or set apart either in whole or in part for application to such objects in future it shall not be included in total income of the person in year of receipt if following conditions are complied with:-

Cl. (a) such person furnishes a statement in form and manner prescribed to A. O. stating the purpose and period of accumulation or setting apart,

such period shall not exceed 5 years.

Cl. (b) money so accumulated on set a part is invested or deposited in modes prescribed in section 11(5)

Cl. (c) such statement should be furnished on or before due date of return of income specified u/s. 139 (1)

Period to be excluded- in computing period of accumulation period during which income could not be applied for the purpose for which it is so accumulated or set apart due to order of court or injunction of any court shall be excluded.

New Explanation 4 - states year in which amount accumulated or set apart for application in future shall be deemed to be income of such person of the previous year when conditions of accumulation are not fulfilled -

any income which is accumulated or set apart for future application-

- a) is applied to purpose other than wholly and exclusively to the object for which the fund or institution etc. is established or ceases to be accumulated or set apart, or
- b) ceases to remain invested or deposited in forms or modes specified in sec. 11 (5), or
- c) is not utilized for the purpose for which it is so accumulated or set apart during the period for which accumulated set apart, or
- d) is credited or paid to any trust or institution registered u/s. 12AA/ 12AB or to fund or institution referred to in sec. 10 (23C) (iv) (v) (vi) (via)

such income shall be deemed to be income of such person of the previous year -

- (1) in which it is applied to other purpose / in which it ceases to be accumulated or set apart under cl. (a);
- (2) it ceases to remain so invested or deposited under cl. (b);
- (3) being last previous year of the period for which it is accumulated or set apart , but is not utilized under cl. (c);
- (4) in which it is so paid or credited under cl. (d).

New Explanation 5 inserted - to give concession that trust can make application to A. O. for applying income for other purpose in certain cases-

It states - where due to circumstances beyond the control of the person in receipt of the income,

any income invested or deposited in forms or modes specified u/s. 11(5), can not be applied for the purpose for which it was accumulated or set apart, the A.O may,

on an application made to him in this behalf,

allow such person to apply such income for such other purpose in India as is specified in the application by that person and as is in conformity with the objects for which the fund or institution or trust etc. referred to in sub-clause (iv) or (v) or (vi) or (via) is established;

However- the A.O shall not allow application of such income by way of payment or credit to any trust or institution registered u/s. 12AA/ 12AB or to fund or institution referred to in sec. 10 (23C) (iv) (v) (vi) (via).

Expl. 3, 4 and 5 inserted in 3rd proviso are applicable w.e.f 01-04-2023 AY. 2023-24

iii. **Condition for maintaining books of account and other document added for claiming exemption-** w.e.f. 01-04-2023 A.Y. 2023-24

tenth proviso substituted to the effect that :--

where the total income of the fund or institution referred to in sub-clause (iv) or (v) or (vi) or (via) , without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such fund or institution shall--

(a) keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed; and

(b) get its accounts audited in respect of that year by an accountant.... before the specified date referred to in section 44AB and furnish by that date, the report of such audit in the prescribed form duly signed and verified by such accountant ...;

iv. **Amendment to provision for cancellation of approval-**

fifteenth proviso substituted, w.e.f. 01-04-2022 to the effect that:--

where the fund or institution etc. referred to in sub-clause (iv) or (v) or (vi) or (via) is approved under the said clause and subsequently –

(a) the Pr. CIT or CIT has noticed one or more specified violations during any previous year; or

(b) the Pr. CIT or CIT has received a reference from the A. O. under the 2nd proviso to sec.143(3) for any previous year as A.O. is satisfied that, the fund or institution approved or provisionally approved u/s. 10(23C) has committed specified violation ; or

(c) such case has been selected in accordance with the risk management strategy formulated by the Board from time to time, for any previous year,

the Pr. CIT or CIT shall –

(i) call for such documents or information from the fund or institution etc. or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

(ii) after giving reasonable opportunity of being heard, pass an order in writing cancelling the approval of such fund or institution etc. for such previous year and all subsequent previous years, if he is satisfied that one or more specified violation has taken place;

(iii) pass an order in writing refusing to cancel the approval if he is not satisfied about the occurrence of one or more specified violations;

(iv) forward a copy of the order to the A.O. and such fund or institution .

Explanation 2.-- “**specified violation**”, meaning of -

(a) any income of the fund or institution etc. has been applied other than for the objects for which it is established; or

(b) the fund or institution etc. has income from business, which is not incidental to the attainment of its objectives **OR** business is incidental but separate books of account are not maintained by it in respect of the business; or

(c) any activity of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution –

(A) is not genuine; or

(B) is not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or

(d) the fund or institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

Time limit for passing the order-

- Pr. CIT or CIT shall pass such order within 6 months from the end of the quarter in which the first notice is issued by the Pr. CIT or CIT, on or after the 01-04-2022, calling for any document/ information, or for making any inquiry, (as per Explanation 1)

Intimation by A.O. under old provisions upto 31-03-2022... where the A.O has intimated the Central Govt. or the prescribed authority under the 1st proviso of sec. 143(3) about the contravention of the provisions of sec 10(23C) sub-clause (iv) or (v) or (vi) or (via) by any fund or institution etc. in respect of an assessment year, and the approval granted to such fund or institution etc. has not been withdrawn or the notification issued in its case has not been rescinded, on or before 31-03-2022 then such intimation shall be deemed to be a reference received by the Pr.CIT or CIT as on 01-04-2022...(As per Explanation 3)

vi. Nineteenth proviso, substituted w.e.f. 01-04- 2022 A.Y. 2022-23 to state:--

where the fund or institution etc. referred to in sub-clause (iv) (v) (vi) or (via) ~~has been notified by Central Govt. or approved by the prescribed authority~~ **has been approved by the Pr. CIT or CIT**, and the ~~notification or approval~~ is in force for any previous year, then to such trust /institution etc. exemption is available under cl. (23C) and cl (1) of sec. 10 only. (only change in substituted proviso is w.r.t. approving authority)

Further as per new expl. below this proviso - w.e.f. 01-04- 2022 A.Y. 2022-23-

Where on or after 01-04-2022 any fund or institution referred to in sub clauses (iv) (v) (vi) or (via) is notified u/s 10(46) from that date approval or provisional approval granted u/s. 10(23C) will become inoperative.

.. After the nineteenth proviso new 20th, 21st, 22nd and 23rd provisos inserted w.e.f. 01-04-2023, A.Y 2023-24 as follows:--

vii. New 20th proviso - Return of income to be filed-

the fund or institution referred to in sub-clause (iv) or (v) or (vi) or (via) shall furnish the return of income for the previous year accordance with the provisions of section 139(4C), within the time allowed under section 139.

viii. New 21st proviso - Benefit to persons specified u/s 13(3) -

where the income or part of income or property of any fund or institution etc. referred to in sub-clause (iv) or (v) or (vi) or (via) has been applied directly or indirectly for the benefit of any person referred to in section 13(3) such income or part of income or property shall be deemed to be the income of such person of the previous year in which it is so applied for the benefit of specified person.

ix. New 22nd proviso - Provides for how income chargeable to tax to be computed in specified cases-

It states that -

-where any fund or institution etc. referred to in sub-clause (iv) or (v) or (vi) or (via) -violates the condition of the 10th proviso or 20th proviso i.e.

It does not maintain books of account and other documents ; or

Does not get books audited/fails to furnish audit report by specified date;

Fails to furnish return of income in accordance with the provisions of sec. 139(4C) within time allowed u/s. 139

or where the provisions of the 18th proviso are applicable i.e.

proviso to sec. 2(15) is attracted and hence benefit of exemption u/s. 10(23C) is not available

its income chargeable to tax shall be computed-

after allowing deduction for the expenditure (only revenue expenditure and not capital expenditure)

incurred in India, for the object of the fund or institution .

subject to the condition that:-

(a) such expenditure is not from the corpus standing to the credit of the fund or institution etc. as on the last day of the financial year immediately preceding the relevant previous year ;

(b) such expenditure is not from any loan or borrowing;

(c) depreciation is not claimed where cost of acquisition is claimed as application ;

(d) such expenditure is not in the form of any contribution or donation to any person.

Explanation. – For determining the expenditure under this proviso the provisions of sec. 40 (a) (ia) and sec. 40A (3) and (3A) shall mutatis mutandis apply as they apply in computing business income .

New 23rd proviso - for the purpose of computing income chargeable to tax under 22nd proviso, no deduction of any expenditure / allowance / set-off of any loss under any other provision of the Act shall be allowed.

x. Application of income will be allowed on actual payment basis only and not when provision is made-

After Explanation 2, the following **new explanation 3 inserted w.e.f. 01-04-2022 A.Y.2022-23** to state that :--

“For the purposes of clause (23C) any sum payable by any fund or institution referred to in sub-clause (iv) or (v) or (vi) or (via) shall be considered as application of income during the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the fund or institution according to the method of accounting regularly employed by it):

xi. New section 115BBI- inserted to provide tax @ 30% on specified income.

xii. Penalty u/s 271AAE inserted if benefit given to specified person.

10. Amendment of section 115TD,115TE and 115 TF – Tax on accreted income- with effect from 01-04-2023,--

provisions of these sections which were not applicable to funds or institutions referred to in sec. 10(23C) sub-clause (iv) or (v) or (vi) or (via) made applicable to these funds /institutions with effect from 01-04-2023.

for this purpose wherever in these sections words “ registered u/s. 12AA or sec. 12AB “ were there, in effect they are substituted by words “ specified person” and in the explanation at foot of sec. 115TD it is stated that -

(ii) “specified person” means--

(a) any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or (v) or (vi) or (via) of clause (23C) of section 10; or

(b) a trust or institution registered under section 12AA or section 12AB;

Amendment of section 115TE.

In section 115TE of the Income-tax Act, with effect from the 01-04-2023,-

for the words “trust or institution”, the words “specified person” shall be substituted;

and it is stated by way of Explanation.—For the purposes of this section, “specified person” shall have the same meaning as assigned to in clause (ii) of the Explanation to section 115TD.

Amendment of section 115TF.

In section 115TF of the Income-tax Act, with effect from the 01-04-2023,-

for the words “trust or institution”, the words “specified person” shall be substituted;

and it is stated by way of Explanation.—For the purposes of this section, “specified person” shall have the same meaning as assigned to in clause (ii) of the Explanation to section 115TD.’

Date of effect of various amendments made by Finance Act 2022 -

w.e.f 01-04-2021- Option to treat voluntary contribution as corpus donation.

w.e.f 01-04-2022- Provisions of cancellation of registration/ approval.

- Application will be allowed on payment (cash) basis only.

w.e.f 01-04-2023- All other amendments.

***** **THANK YOU** *****