

RENEWAL OF REGISTRATION

♦ Legal Series Vol. XIV ♦ Issue 1A ♦ April 2021

For private circulation only

ANALYSING INCOME TAX RULES 2021



Authors* :

Dr. Manoj Fogla, Founder, SAGA LAW LLP

Dr. Sanjay Patra, Executive Director, FMSF

Suresh Kejriwal, Consultant

Sandeep Sharma, Director Program, FMSF

* The Authors can be contacted at mfogla@yahoo.com

Standards & Norms

Resource support on NGO Governance, Accounting and Regulations



RENEWAL OF REGISTRATION

♦ Legal Series Vol. XIV ♦ Issue 1A ♦ April 2021

For private circulation only

ANALYSING INCOME TAX RULES 2021

CONTENTS

1.	INTRODUCTION	01
2.	FORM 10A FOR PROVISIONAL REGISTRATION AND REVALIDATION OF EXISTING REGISTRATION	02
-	WHO CAN APPLY IN FORM 10A	02
-	TIMELINE TO APPLY IN FORM 10A	02
-	PROCEDURE ON RECEIPT OF APPLICATION IN FORM 10A	02
3.	FORM 10AB FOR FIVE YEAR REGISTRATION AND CONVERSION OF PROVISIONAL REGISTRATION	03
-	WHO CAN APPLY IN FORM 10AB	03
-	TIMELINE TO APPLY IN FORM 10AB	03
-	PROCEDURE ON RECEIPT OF APPLICATION IN FORM 10AB	04
4.	DOCUMENTS TO BE SUBMITTED	04
5.	MODE OF FILING FORM	06
6.	VERIFICATION OF FORM	06
7.	REQUIREMENT OF DARPAN ID	06

INTRODUCTION

- 1.01** The Finance Act 2020 has brought in major changes for NGOs by introducing new section 12AB replacing section 12AA and bringing in similar amendments in section 10(23C) and Section 80G. The process of registration and approvals of NGOs shall be completely electronic under which a unique registration number (URN) shall be issued to all new and existing charitable institutions. This database shall help in mapping the exact size of NGO sector in India. Further, under the new scheme of registration, the department will revisit the registration every five years before the expiry of the period of exemption. Hence now, the registration under the new scheme shall be valid for a specified period, that is, up to 3 years for provisional cases and a maximum period of 5 years for regular registration.
- 1.02** These provisions pertaining to registration were originally made effective from 01-06-2020. Subsequently, due to the crisis caused by COVID-19, the Central Board of Direct Taxes (CBDT) announced to deferrment of the implementation of the new procedure for approval and registration. Accordingly, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 ('the Amendment Act, 2020') deferred the date of enforcement of the new procedure introduced by the Finance Act, 2020 to 01-04-2021 and, therefore, the old process for approval under section 12AA and 10(23C) shall continue till 31-03-2021.
- 1.03** The CBDT has notified the Income-tax (6th Amendment) Rules, 2021. These rules shall come into force on the 1st day of April, 2021. In these rules, the CBDT has notified new rules and forms in case of trust or institution or fund mentioned under section 10(23C), 35, 12A, 80G.
- 1.04** In this issue we have discussed the new requirements of registration and approval for NGOs effective from 1st April 2021.

FORM 10A FOR PROVISIONAL REGISTRATION AND REVALIDATION OF EXISTING REGISTRATION

2.01 The Income Tax (6th Amendment Rules), 2021 have notified Form 10A for making application for registration or provisional registration or intimation or approval or provisional approval.

2.02 This Form 10A should be used for both provisional registration as well as the revalidation of existing registration under Section 12A/12AA/10(23C)/80G.

2.03 *Who can apply in Form 10A?*

Form 10A shall be used for the following purposes.

- Application for revalidation of registration/approval for existing trust registered/approved under Section 12A/12AA/10(23C)/80G.
- Application for provisional registrations/approval under section 12AB/10(23C) / 80G (For New cases).

2.04 *Timeline to apply in Form 10A*

Category	Timeline to make application
Trusts already approved/registered and their approval/registration is continuing an on 01-04-2021	On or before 30-06-2021
Trusts making application for provisional registration/approval	1 month before the commencement of the previous year relevant to the assessment year from which the said approval is sought.

2.05 *Procedure on receipt of application in Form 10A*

On receipt of an application in Form No. 10A, the PCIT or CIT shall pass an order in writing granting approval in Form No. 10AC and issue a sixteen-digit alphanumeric Unique Registration Number (URN) to the applicants.

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 required to be provided under this rule, the PCIT or CIT, after giving an opportunity of being heard, may cancel the approval granted in Form No. 10AC and URN, and such approval in Form No. 10AC or such URN shall be deemed to have never been granted or issued.

FORM 10AB FOR FIVE YEAR REGISTRATION AND CONVERSION OF PROVISIONAL REGISTRATION

3.01 The Income Tax (6th Amendment Rules), 2021 have notified Form 10AB for making application for registration or approval.

3.02 *Who can apply in Form 10AB?*

Form 10AB shall be used for the following purposes.

- Conversion of provisional registration into regular registration
- Renewal of registration/approval after five years
- Activating inoperative registration under section 10(23C)/10(46)
- Re-registration for modification of objects for entities registered u/s 12.

3.03 *Timeline to Apply in Form 10AB*

Category	Timeline to Apply
Conversion of provisional registration into regular registration	At least 6 months before the expiry or within 6 months of commencement of its activities, whichever is <i>earlier</i> .
Renewal of registration/approval after five year	At least 6 months prior to expiry of the said registration period.
Activating inoperative registration under section 10(23C)/ 10(46)	At least 6 months before the approval commencement of the assessment year from which the said registration is sought to be made operative.

Re-registration for modification of objects for entities registered under Section 12AB	Within 30 days from the date of the said adoption or modification.
--	--

3.04 *Procedure on receipt of application in Form 10AB*

Once an application in Form 10AB is submitted by the Trust or Institution, a notice is issued by the concerned commissioner to furnish the documents/clarifications/information to satisfy himself about the genuineness of activities of the trust or institution and the compliance of such requirements of any other law for the time being in force by the trust or institution as are material to achieve its objects. The commissioner is under an obligation to follow the procedure prescribed under section 12AB/10(23C)/80G before he grants or refuses registration or approval.

In case of an application made in Form No. 10AB, the order of registration or rejection or cancellation of registration shall be in Form No. 10AD and in case if the registration is granted, sixteen-digit alphanumeric number URN shall be issued by the PCIT or CIT.

DOCUMENTS TO BE SUBMITTED

4.01 The application in Form Nos. 10A or 10AB shall be accompanied by the following documents:

- (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 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

MODE OF FILING FORM

- 5.01** The application in Form Nos. 10A or 10AB shall be furnished electronically under digital signature, if the return of income is required to be furnished under digital signature. In other cases, it shall be submitted through electronic verification code (EVC).

VERIFICATION OF FORM

- 6.01** The application shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the applicant.

REQUIREMENT OF DARPAN ID

- 7.01** NGOs play a major role in the development of the nation by supplementing the efforts of the Government. Registration with NitiAayog is mandatory to apply for grants under various schemes of Ministries/Departments/Governments Bodies.
- 7.02** NGO-DARPAN portal has been started as an initiative of the Prime Minister's Office, to create and promote a healthy partnership between VOs/NGOs and the Government of India. This Portal is managed by NITI Aayog currently.
- 7.03** It is an e-governance application offered by NITI Aayog to electronically maintain data and transparency regarding NGOs/VOs in the country. NGOs have to sign-up on the NGO-DARPAN portal to obtain a Unique Identity Number (UIN) by furnishing the required details like registration number of the organization, PAN of the organization, PAN and Aadhaar details of the office bearers/trustees etc.

The Income Tax (6th Amendment) Rules, 2021 provides that :

- a) Details of Registration number with Darpan portal of NitiAayog is to be provided if already there and
- b) mandatorily to be given if the applicant receives or intends to receive any grantor assistance from either the Central Government or state Government.

Standards & Norms aims to provide relevant informations and guidance on NGO governance, Financial Management and Legal Regulations. The informations provided are correct and relevant to the best of the knowledge of the author and contributor. It is suggested that the reader should cross check all the facts, law and contents before using them. The author or the publisher will not be responsible for any loss or damage to any one, in any manner.



fmsf

Published by **Dr. Sanjay Patra** on behalf of
FINANCIAL MANAGEMENT SERVICE FOUNDATION
'ACCOUNTABILITY HOUSE', A-5, Sector 26, Noida-201 301
Tel. : 91-120-4773200, website : www.fmsfindia.org
e-mail : fmsf@fmsfindia.org

