

What are the pre-requisites for a non-profit organisation to enjoy tax exemption?

In the case of any non-profit organisation or in case of any charitable organisation there is zero tax implication. Provide you follow certain simple norms that Income Tax department has laid down for you. You might tell me that you have a lot of income. Say how much? One Crore, Ten Crores, Hundred Crores no cap on it.

You may have hundred crores of income as you income you need to follow simple norms laid down under income tax. You do not need to pay any tax at all. So let's look at the first slide which is very important. There is no tax for charitable institution provided first you need to get registration under certificate 12AA of the income tax act.

It's a one-time registration. So what happens is first at the state level you either register yourself as a trust or a society. If you are in Maharashtra you will be registered both as a trust and a society or as a company under section 25. And you can say now the car is ready. But how do you make the car run. You need fuel. Fuel equals money. Money means income tax.

So now you go to the income tax department to exempt your income from tax. So even before you get a 12A you need to get a PAN number for your organisation. Whether you are trust or a company you get a permanent account number that's important and then you get a 12AA certificate which is a simple one page form with that you attach your registration certificate the charity commissioner or whatever the case maybe and attaching your constitution that I your trust deed or memorandum of association and whatever other details that the department may ask you for. And once you get it you have your 12A registration which is there. You don't need to renew it.

This means you are recognised by income tax department as tax exempt organisation. But this tax exemption is reviewed on a financial year to financial year or rather what an income tax calls the assessment year to assessment year basis. So in certain years if you so not obey the laws of income tax in that year your 12A stands suspended. Earlier what used to happen is that if you flouted any if the laws you would be deregistered under 12A now that has thankfully gone away. They assess you on an assessment year to assessment year basis and in any year where you have defaulted in that year your 12A is suspended that means in that year you are treated like an AOP and you are charged under the maximum marginal tax rate act.

Such as your business income going over twenty five lakhs or whatever other norms I am going to talk about. Second is that the institution must continue to operate only for charitable purposes according to your own objects. You do not swing around on that. You must spend at least 85 percent of you income in any given financial year begins first April on the objects of the institution which included your admin cost. The language in the income tax is apply 85 percent of your income which include your admin cost.

What do you do with the following 15 percent. Yes sure you could take it to your corpus or you could create it as your reserve fund or a contingency fund or a building fund or

a repair fund .Let's say you are running a hospital so you put that amount aside for contingency or a repair fund for your hospital or for your school or whatever. That 15 percent is not un-compared so you can really create a sort of a corpus a reserve fund you put it under any nomenclature but that minimum requirement of 85 percent spending is mandatory.

You must invest your funds only as per norms prescribed under 11(5).That means no investment in shares and stocks. You can invest in bank deposits, government bonds. And the trustees and the relatives of the trustees' should not derive any personal benefit. Most important. Section 13 over here .If you in any financial year, the year after that is treated as the assessment year from the income tax point of view .You follow it and pay no tax. Assuming in any financial year you default on any of this things what happens well very thankfully none of your trustees will go to jail .What will happen in that case is for that year your 12 A will go away .In that year you will pay the tax and in the next year if you behave yourself and the window will open again for you. It's as simple. That's income tax for you. Income tax in a nutshell.