

ICAI

Handbook on Statement of Donations Received

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The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi



Handbook on Statement of Donations Received



Direct Taxes Committee
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Foreword

Despite the fact that the profession of Chartered Accountancy has diversified in many ways, practice in the area of direct taxation is still one of the important areas for the Chartered Accountants. Our members keep themselves abreast with ever changing taxation laws and have attained commanding heights in this area. Specified assessee receiving donations and registered under the relevant provisions of Income-tax law and claiming exemptions are now required to make one additional compliance. Such donees are now required to furnish details of donors in the specified format (Form 10BD) and there are penal provisions for not furnishing such details by the specified timeline.

The Institute of Chartered Accountants of India (ICAI) has always been proactive in disseminating knowledge and honing the skills of its members. I am really happy to note that the Direct Taxes Committee of ICAI has come out with this publication namely "**Handbook on Statement of Donations Received**" so as to assist the members in meeting their professional commitments.

I appreciate the efforts of CA. Chandrashekhar V. Chitale, Chairman, Direct Taxes Committee and CA. Raj Chawla, Vice-Chairman, Direct Taxes Committee who have worked tirelessly for bringing out this Technical Guide.

I am sure that this Guide will assist the members in complying their professional commitments effectively.

Date: 23.05.2022

CA. (Dr.) Debashis Mitra

Place: New Delhi

President, ICAI

Preface

Taxation continues to be one of the pre-dominant areas of engagements for chartered accountants. Especially, now a days, provisions pertaining to Charitable trusts and the like assesses is constantly changing and updated considering the need of the hour requiring professional help for complying with the same. Even, the Income Tax Department has moved towards completely electronic environment.

Charitable trusts and other similar assesses receives a lot of donations. Donors on the basis of donations made claim deduction under specific provisions of the Income-tax Act, 1961. Earlier there was no mechanism to cross check whether donation are actually made by the donor to specified donee. In order to prevent leakage of revenue, the Hon'ble Finance Minister proposed for a statement to be furnished by the recipient trust and the like assesees (in Form No. 10BD) detailing therein the details of donors and thereafter generation of certificate in the Form 10BE. As per current rules, the said statement is to be furnished by 31st May following the Financial Year. Since it's a first time compliance, a need is being felt for providing relevant guidance at one place to make the said compliance easier for the concerned assesses. Accordingly, this write up hopefully provides a quick guidance from DTC of the ICAI on this subject of furnishing of Form No. 10BD and issuing Form No. 10BE.

To provide quick guidance on this matter, and to elaborate the recent changes made in this regard to the members, this publication/write up would prove to be very useful. It covers the relevant provisions, the forms, requirements of furnishing, certain issues that may be faced and the like. We hope, it would enable the members to better understand the said provisions.

Under the aforesaid circumstances, we at the Direct Taxes Committee thought it fit to bring out this brief publication namely "**Handbook on Statement of Donations Received**" as a handy tool to assist the fraternity to better understand the issues in furnishing and also to assist them in making proper compliance of the new provisions in more objective manner and with consciousness towards related documentations.

We are sincerely thankful to CA. (Dr.) Debashis Mitra, President, ICAI and CA. Aniket Sunil Talati, Vice-President, ICAI for being guiding force behind all initiatives being taken by the Committee.

We are pleased to place on record my sincere gratitude for the involvements and contributions by all the Committee members and our dear Council Colleagues of ICAI. We are sure that this effort of DTC of ICAI would go a long way in assisting our members in making utmost compliance of the new provisions.

Last but not the least, we appreciate the dedicated efforts of CA. Shrutika Oberoi, Secretary, Direct Taxes Committee and CA. Ravi Gupta, Assistant Secretary, Direct Taxes Committee and CA. Rudrakshi Sharma, Professional and CA. Ajay Yadav, Project Associate for their technical and administrative assistance in bringing out this write-up in a limited time.

CA. Raj Chawla
Vice-Chairman
Direct Taxes Committee
ICAI

CA. Chandrashekhar V. Chitale
Chairman
Direct Taxes Committee
ICAI

Date: 23.05.2022

Place: New Delhi

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I. Introduction

Donation for charitable and religious purposes is common feature of Indian culture. Donations are offered for good cause by persons being king, wealthy person and even by common folk. Income-tax law has provided incentive in the form of deduction from taxable income. Law governing deduction for donations for charitable and religious purposes is contained in section 80G of the Income-tax Act, 1961.

With the advent of faceless era of tax assessments, information substantiating amount of income and claims for deductions is being collected from sources. New law has come into force from 1st April, 2022 (AY 2022-23) that requires charitable and public religious institutions to provide information relating to donations received that qualify for deduction under section 80G of the Act. Deductions to donors will be available on the basis of such information furnished. This handbook provides useful information about law and practice of furnishing statements of donations received.

Law on Statement of Donations Received

Section 80G provides for deduction for eligible donations made to charitable and public religious trusts from gross total income. Donors claiming such deductions should be able to substantiate the same. Therefore, instead of seeking information from each donor, the responsibility has been given to the institutions receiving donations.

New law is contained in clause (viii) of section 80G and under clause (i) to sub-section (1A) of section 35. It is applicable from the financial year commencing from 1st April, 2021. Accordingly, for the first time for FY 2021-22 and the due date is 31st May, 2022 after close of the Financial Year.

Donee Trust is required to furnish Form 10BD. On submission of Form 10BD, a certificate in Form 10BE shall be generated by the system. This Form 10BE shall be furnished to the donee. Form no. 26AS will also include information about such donations in case of donors.

II. Legislative Intent and Legal Provisions

Relevant Extract from the Explanatory Memorandum to the Finance Bill 2020

Filing of statement of donation by donee to cross-check claim of donation by donor. It may further be mentioned that certain provisions of the Act provide that an exempt entity may accept donations or certain sum for utilisation

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towards their objects or activities in respect of which the payer, being the donor, gets deduction in computation of his income. At present, there is no reporting obligation by the exempt entity receiving donation/ any sum in respect of such donation/ sum. With the advancement in technology, it is now feasible to standardise the process through which one-to-one matching between what is received by the exempt entity and what is claimed as deduction by the assessee. This standardisation may be similar to the provisions relating to the tax collection/ deduction at source, which already exist in the Act. Therefore, the entities receiving donation/ sum may be made to furnish a statement in respect thereof, and to issue a certificate to the donor/ payer and the claim for deduction to the donor/ payer may be allowed on that basis only.

The following Extract from Budget Speech provides background of the new law relating to furnishing of the Statement.

While presenting the Union Budget for 2020-21 on 1st February 2020, the Hon'ble Finance Minister Smt Nirmala Sitharaman acknowledged the role of charitable institutions in the society. Her budget speech dealing with charitable organizations and new initiatives taken by the government in relation there to is reproduced below-

Acknowledging the important role played by the charitable institutions in the society, the income of these institutions is fully exempt from taxation. Further, donation made to these institutions is also allowed as deduction in computing the taxable income of the donor.

Currently, a taxpayer is required to fill the complete details of the donee in the income tax return for availing deduction.

In order to ease the process of claiming deduction for donation, it is proposed to pre-fill the donee's information in taxpayer's return on the basis of information of donations furnished by the donee. This would result in hassle-free claim of deduction for the donation made by the taxpayer.

The first year of implementation of these forms will be with effect from FY 2021-22

Extracts of Relevant Provisions under Income-tax Act/Rules

I. As per Section 80G(5)(viii) of the Income-tax Act, 1961, 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

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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.

Further, Section 80G(5)(ix) of the Income-tax Act, 1961, provides that 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.

II. Section 35(1A)(i) of the Income Tax Act 1961 provides that Notwithstanding anything contained in sub-section (1), the deduction in respect of any sum paid to 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 allowed, 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, 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.

- (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.

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Procedure

To provide procedural requirements for furnishing of:

- (a) Statement of Donations received and
- (b) Certificate of Donation received to Donors

new Rule 18AB has been inserted. Forms, signing of new forms, due date etc. is prescribed under the Rule. Notification No. 19/2021, dated 26.03.2021 has inserted this new Rule 18AB.

Rule 18AB. 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

- (1) For the purpose of clause (viii) of sub-section (5) of section 80G and clause (i) to sub-section (1A) of section 35, the prescribed authority shall be the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) as the case may be.
- (2) Statement of particulars required to be furnished by any research association, university, college or other institution or company or fund (hereinafter referred to as 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, on or before 31st May in the following year in Form No. 10BD and shall be verified in the manner indicated therein.
- (3) The reporting person, referred to in sub-rule (2), shall, while aggregating the amounts for determining the sums received for reporting in respect of any person,
 - (i) take into account all the donations of the same nature paid by that person during the financial year; and
 - (ii) proportionately attribute the value of the donation or the aggregated value of all the donations to all the persons, in a case where the donation is recorded in the name of more than one person and where no proportion is specified by the donors, attribute equally to all the donors.

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- (4) Form No. 10BD, shall be furnished electronically,—
 - (i) under digital signature, if the return of income is required to be furnished under digital signature;
 - (ii) through electronic verification code in a case not covered under clause (i).
- (5) Form No. 10BD shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the assessee.
- (6) The reporting person shall furnish the certificate 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. 10BE specifying the amount of donation received during financial year from such donor, beginning with the financial year 2021-2022.
- (7) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax(Systems), as the case may be, shall -
 - (i) lay down the,-
 - (a) data structure, standards and procedure of furnishing and verification of Form No. 10BD, single or multiple;
 - (b) the procedure to submit correction statement for rectification of any mistake or to add, delete or update the information furnished in Form No. 10BD; and
 - (c) the procedure, formats and standards for the purposes of generation and download of certificates in Form No. 10BE
 - (ii) be responsible for,-
 - (a) formulating and implementing appropriate security, archival and retrieval policies in relation to the Form No.10BD so furnished; and
 - (b) the day-to-day administration in relation to the generation and download of certificates in Form No. 10BE, from the web portal specified by him or the person authorised by him.
- (8) The certificate referred to in sub-rule (6) 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.

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- (9) Form No. 10BD referred to in sub-rule (1) shall be furnished on or before the 31st May, immediately following the financial year in which the donation is received.

This Rule and Form No. 10BD amended further vide Notification No. 51/2022, dated 09.05.2022.

The Memorandum regarding Delegated Legislation of The Taxation And Other Laws (Relaxation And Amendment Of Certain Provisions) Bill, 2020 provides as under:

The proposed amendment to sub-section (5) of section 80G empowers the Board to provide by rules the statement, time period, form and manner of verification, particulars and time for delivery of correction statement for rectification of any mistake in the information furnished in the said statement. It further proposes to empower the Board to make rules with regard to the manner, particulars and time for certificate of donation.

Relevant Extract from Notes on Clauses to The Finance Bill 2020 (Penal provisions)

Sub-section (1) of the proposed section provides that without prejudice to the provisions of that Act, where the research association, university, college or other institution or the company fails to deliver or cause to be delivered a statement within the time prescribed under clause (i), or furnish a certificate prescribed under clause (ii) of subsection (1A) of section 35; or the institution or fund fails to deliver or cause to be delivered a statement within the time prescribed under clause (viii) of sub-section (5), or furnish a certificate prescribed under clause (ix) of sub-section (5) of section 80G; it shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues. Sub-section (2) of the proposed section provides that the amount of said fee shall not exceed the amount in respect of which the failure referred therein has occurred and shall be paid before delivering or causing to be delivered the statement mentioned in sub-section (1).

III. Insights into Form No. 10BD

Section 80G of the Income-tax Act, 1961 provides for deduction on payment of donations. Until the last financial year, there was no way to counter check the accuracy of the donations paid. The Income-tax Department (ITD) allowed deduction based on the claim made by the assessee.

However, the CBDT through Notification No. 19/2021 dated 26.03.2021, has notified Form No. 10BD and Form No. 10BE to facilitate more transparency and accuracy on the reconciliation of deductions claimed by the assessee and donations received by the Charitable Organizations.

Form No. 10BD is a statement of donations containing the details of donations received by the Charitable Organizations during the financial year.

IV. Process for Filing of Form No. 10BD

- Login to the Income Tax E-filing Portal
- Go to E-file Income-tax Forms
- Any other sources information
- Tax Exemptions and Reliefs (Form 10BD)
- Select Financial Year
- Form is divided into 3 parts:
 - a. Basic information
 - b. Details of donations
 - c. Verification

File the part B details by downloading a template, in each template maximum of 25,000 rows can be added. Form 10BD can be filed multiple times. Once, the data is inserted into CSV file, upload the same in the portal. The preview of the form can be viewed and can be verified online via digital signature or electronic verification code.

V. Details required to file Form No. 10BD

- Statement Number
- Pre Acknowledgement number
- Unique Identification Number (PAN/ Aadhar Number/ Passport/ Driving License)
- Section code – 80G, 35(1)(ii), 35(1)(ia), 35(1)(iii)
- Donor's ID
- Date of Issue of Unique Registration Number and date of issue
- Name of Donor

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- Address of Donor
- Donation type (Corpus, Specific, Restricted Grant/ Others)
- Mode of Receipt (Cash, Kind, Electronic, Others)
- Amount of Donation (Indian rupees)

Following points to be noted while filing Form No 10BD:

- Pre acknowledgment number – To be left blank in case of the original filing, the same will be generated once Form 10BD is filed. However, while filing the revised Form 10BD the same pre acknowledgment number should be mentioned.
- Unique Registration number – URN mentioned at the Sr. No. 5 of Form 10AC (Order for registration or provisional registration or approval or provisional approval)
- Introduction of new Compliances via Form 10BD/10BE is a very big step. Now onwards, details of donations might be reflected in Form No. 26AS/AIS/TIS of Donor, thus it will bring more transparency.

VI. Due Date for Filing the Form

The due date to file Form No. 10BD is 31st May of the immediately financial year in which donation is received (i.e. for Financial Year 2021-2022, it is 31.05.2022) (Rule 18AB(9))

VII. Issuance of Certificate of Donation

Post filing of Statement of Donations in Form 10BD, the concerned assessee/donee is required to download and issue Certificate of Donation in Form 10BE. The certificate would contain details of recipient like its Name, PAN, Address, URN u/s 80G & 35(1) along with details of donations and donor. For the financial year 2021-22, Form 10BE is to be issued by 31st May 2022. Ideally, Form 10BE information would be reflected in Form 26AS/AIS/TIS of the Donor. However, as per the current provisions, Form No. 10BE is to be sent to all the Donors. Preferably, the same may be sent to email Id/mobile no (if available) in soft form or through post in hard copy to the designated address of the Donors (if provided).

VIII. Procedure for Correction of Error in Certificate of Donation

In case of any inadvertent errors or mistakes in Form 10BE, then there are provisions to rectify the errors or mistakes by filing a correction form (filing Form 10BD again with corrections).

IX. Consequences of Non-filing of Form 10BD

The reporting entity is mandated to comply with the filing of Form 10BD and failure to comply will attract a fee of Rs.200/- per day of delay as per newly inserted section 234G. However, the late fee should not exceed the donation amount in respect of which delay has occurred in filing Form 10BD

Apart from the fee for delay in furnishing statement of donations in Form 10BD, failure to file such statement will also attract penalty u/s 271K, which shall not be less than Rs.10,000/- but may extend up to Rs.1,00,000/-

With the introduction of Form 10BD, it is now crucial for the donor to not only obtain a donation receipt but also a Certificate of Donation in Form 10BE in order to claim deduction. Therefore, if donor is not able to get deduction, it will affect standing of the institution which can lead to reduction in amount of donations to be received in future.

X. No Deduction to Donor

Furnishing of Form 10BD is relevant from the perspective of Donor

Explanation 2A to section 80G provides that '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.'

Thus, when there is failure in furnishing of Form 10BD, the Donor will not be able to claim deduction under section 80G. Also, if particulars of donor are not available with the charitable or public religious institution or particulars of donors are not filled in properly, the donation may not get reflected in his Form No. 26AS. In these circumstances, the Donor shall be deprived of benefit of deduction under section 80G of the Act.

XI. Assessee not having registration for the purpose of receiving donations under Section 80G or Section 35 of Income-tax Act,1961

Such assessee may not be required to file Form 10BD as they are not registered the purpose of receiving donations under Section 80G or Section 35 of Income-tax Act,1961. Donors in such a case will not be able to claim deductions for donations made under the aforesaid sections.

XII. Suggested form for obtaining information of donors

The following form can be used to collect information from donors for furnishing Form no. 10BD:

Name of Donor	Address of Donor	Unique Identification Number (PAN/Aadhaar etc.)	Date of Issue of Identification Number	Type of Donation (Corpus/ Specific direction/ others)	Mode of Receipt (Cash/ Cheque/ DD/E transfer)	Amount of Donation (Indian rupees)	Signature of Donor

In order that the above information is correct, receiving documentary evidence like copy of PAN or Aadhaar card or other Identification Number, etc. is desirable. Further, obtaining signature of the donor on the form containing his particulars is recommended. If the information is not available with the trust or institution at the time of furnishing of the form 10BD, efforts should be made to collect the same either before or even after furnishing the said form. Availability of complete information and evidence will provide ease in furnishing of the Form 10BD. Besides, there is provision for taxation of anonymous donations in section 115BBC. If the information is available, exposure to the risk of donation being treated as anonymous donations shall be avoided.

XIII. Information to be filed by donor in ITR form in respect of donation

The following information is to be furnished by donor to claim deduction of donation made:

- Donation Type

- PAN of Donee
- Name of Donee
- Address of Donee
- Donation in cash
- Donation in Other Mode
- Total Donations
- Eligible Amount of Donations

The amount of donation will be reflected in Serial No. m of Part C of Deductions and Taxable Total Income as per ITR-1 and similar columns in other return forms.

XIV. Details of Donation under Form 26AS

When Donee furnish the Form 10BD, a certificate will be available in the Income tax portal in Form 10BE which is to be furnished to donor. The detail of donations will be reflected in Form 26AS (AIS/TIS) of Donor

XV. Responsibility to furnish Form 10BD/10BE

As per Rule 18AB, Form 10BD to be signed Digitally. For the reporting entity it is to be determined on the basis of provisions of Section 140 of Income-tax Act, 1961.

XVI. Practical Issues in furnishing Form No. 10BD

1. Donations received in kind: Form 10BD requires reporting of donations received in kind as well. However, there will be practical difficulties in reporting the same as there is no basis of valuation prescribed in the Income Tax Act or rules. Donations received in kind may need to be converted in some monetary value. The same should be measured on reasonable or fair basis. It is also to be noted that as per Explanation 5 to Section 80G of the Income-tax Act, 1961 *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.* Thus, it seems that even though the Form No BD seeks information regarding donation in kind, but the same is not eligible for deduction u/s 80G.

2. Small or Penny donations: This type of donations is also required to be reported under Form 10BD. There is no threshold limit prescribed for

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reporting donations under this form. Hence, every amount of donation needs to be reported.

3. Donations received in foreign currency: In order to report the same, donations in foreign currency needs to be converted at the exchange rate which may be taken as the date of receipt of donation. If donation is received from foreign donor, it is advisable that organisation must obtain the tax identification number like SSA no, etc. Moreover, donation from foreign sources must comply with the provisions of Foreign contribution(Regulation) Act.

4. Donations received through Digital Platform Channel: Such donations should ideally not form part of anonymous donation under the Income tax law as such donations are made via banking channels and may be accordingly reported.

5. Whether religious trust also required to file form 10BD and 10BE: This issue is not yet clear and on a safer note such trust may file form 10BD. However, as religious trust are generally not eligible for approval u/s 80G, and these trusts are generally having Hundi Donations, the provisions of furnishing information in Form No 10BD to such donation is not applicable. However, where public religious trust is registered under section 80G, then donations to such a trust qualify for deduction under section 80G and for such a trust, it is mandatory to furnish Form 10BD and issuing Form 10BE.

6. PAN details of donor not available with donee at the time of filing: In this regard, 'Notes to file Form 10BD' should be referred which states that if neither PAN or Aadhar number is available, other type of identification like Passport number/Driving license number/Elector's photo identity number/Ration card number/Taxpayer Identification number of country where the person resides can be filled.

7. No Identification number of donor is available with donee: An organisation must put effort to obtain PAN or others IDs from the donor, if any of them is not available then it may amount to anonymous donation as per Section 115BBC of Income Tax Act,1961 which reads as: For the purposes of this section, "anonymous donation" means any voluntary contribution referred to in sub-clause (iia) of clause (24) of section 2, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.' As per Section 115BBC(1), includes any income by way of any anonymous donation, the income-tax

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payable shall be the aggregate of—

- (i) the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of the higher of the following, namely:—
 - (A) five per cent of the total donations received by the assessee; or
 - (B) one lakh rupees, and
 - (ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred to in sub-clause (A) or sub-clause (B) of clause (i), as the case may be.
- (2) The provisions of sub-section (1) shall not apply to any anonymous donation received by—
 - (a) any trust or institution created or established wholly for religious purposes;
 - (b) any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.
 - (3) For the purposes of this section, "anonymous donation" means any voluntary contribution referred to in sub-clause (iia) of clause (24) of section 2, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.

8. Whether an institution shall file Form 10BD if provisional approval under section 80G: Form 10BD is required to be filed by every person having approval under section 80G or section 35. It is irrelevant whether the organization has provisional approval or regular approval.

9. What if organisation has not received a single donation or grant during the financial year: In this case you need not file Form 10BD, the Income tax portal so far not permit to file Nil Form 10BD.

10. Whether Form 10BD can be revised: Yes, in case of any Error/Correction in Filing Form 10BD, it can be revised as per 'Notes to fill Form 10BD' , 'Pre Acknowledgement Number' is mentioned which is to be

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left blank in case of the original filing, the same will be generated once Form 10BD is filed. However, while filing the revised Form 10BD the same pre acknowledgment number should be mentioned.

11. How many times Form 10BD can be filed: Multiple form 10BD may be filed by the same reporting person, as per the procedures laid down by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be.

12. Donations received prior to registration under relevant provisions of Income-tax Act, 1961 of the concerned assessee: While filing Form No. 10BD (Statement of Donations), a pertinent question arises whether donations received before the date of registration granted by Income-tax department under section 80G/35 have to be considered for furnishing the same in Form 10BD meant for FY 2021-22. Eg section 80G registration granted on, say 28.02.2022. Then, donations received during the year FY 2021-22 but before 28.02.2022 are eligible for section 80G benefit and whether the same have to be reported in Form 10BD? The CBDT needs to clarify the same.

13. Incomplete Information: If the complete information is not available for all donations, it is not possible to furnish Form 10BD. In such circumstances, as a matter of prudence, the institution may consider furnishing the Form 10BD in respect of donations where all particulars are available. This is because, delay attracts fees and penalty and there is a provision to furnish a correction statement.

14. Correction Statement: On how many occasions correction statement can be furnished? It is noted that proviso to clause (viii) of section 80G(5) states that "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". There is no mention that correction statement can be furnished only once. This is also the case considering object of it is to correct any mistake.

15. Donations in Offering Box: In Religious places like temple, gurudwara, church, mosque etc. donations are put in offerings box by devotees. Since no particulars of donors would be available in such a situation, it is not possible to include such donations in Form 10BD. Further, section 115BBC(2) excludes such donations from purview of anonymous donation.

XVII. Provisions of Section 80G & Section 35

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 (iiia) or in sub-clause (iiiaa) or in sub-clause (iiiab) or in sub-clause (iiib) or in sub-clause (iiie) or in sub-clause (iiif) or in sub-clause (iiig) or in sub-clause (iiiga) or sub-clause (iiih) or sub-clause (iiihha) or sub-clause (iiihb) or sub-clause (iiihc) or sub-clause (iiihd) or sub-clause (iiihe) or sub-clause (iiihf) or sub-clause (iiihg) or sub-clause (iiihh) or sub-clause (iiihj) or sub-clause (iiihk) or sub-clause (iiihl) or sub-clause (iiihm) 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
 - (iiia) the Prime Minister's National Relief Fund⁹⁹[or the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)]; or
 - (iiiaa) the Prime Minister's Armenia Earthquake Relief Fund; or
 - (iiiab) the Africa (Public Contributions - India) Fund; or
 - (iiib) the National Children's Fund; or

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- (iiic) 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
- (iiid) the Rajiv Gandhi Foundation, the deed of declaration in respect whereof was registered at New Delhi on the 21st day of June, 1991; or
- (iiie) the National Foundation for Communal Harmony; or
- (iiif) a University or any educational institution of national eminence as may be approved by the prescribed authority¹ in this behalf; or
- (iiig) 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
- (iiiga) any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat; or
- (iiih) 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

- (iiiha) 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;

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- (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
- (iiihb) 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
- (iiih i) the Fund for Technology Development and Application set up by the Central Government; or

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- (iihj) 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
 - (iihk) 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
 - (iihl) 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
 - (iihm) 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

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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 guidelines², 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;

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- (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 25³ 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 ⁴[approved by the Principal Commissioner or Commissioner;]
- (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

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(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) 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:

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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:

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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 authority⁶ and in such manner as may be prescribed⁷, on or before the 30th day of June, 2004.

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(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) 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.]

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.—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.]

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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

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- (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;

- (*ii*a) 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;

- (*ii*i) 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*) or to a company to which clause (*ii*a)] 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 clause (*ii*) or clause (*iii*) or to a company referred to in clause (*ii*a)] has been withdrawn;

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- (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:

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

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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) Notwithstanding anything contained in sub-section (1), the deduction in respect of any sum paid to 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 allowed], 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

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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 ;

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- (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—

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(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 ;

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- (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 authority⁴³, 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.

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(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.

XVIII. Form No. 10BD and Form No. 10BE

FORM No. 10BD (See Rule 18AB) (e Form)

Statement of particulars to be filed by reporting person under clause (viii) of sub-section (5) of section 80G and clause (i) to sub-section (1A) of section 35 of the Income-tax Act, 1961

Part A

Details of the reporting person reporting the donations																
1	PAN					A	B	C	D	E	1	2	3	4	F	
2	Reporting period					Y	Y	Y	Y	-	Y	Y				

2[Part B

Details of the donors and donations

Sl. No.	Pre Acknowledgment No.'s	Unique Identification Number of the donor	ID code	Section code	Unique Registration Number (URN)	Date of Issuance of Unique Registration Number	Name of donor	Address of donor	Donation Type	Mode of receipt	Amount of donation (Indian rupees)
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I _____, son/daughter of _____, hereby declare that the details given in the form are true and correct to the best of my knowledge and belief.

I undertake to communicate forth with any alteration in the particulars submitted, made at any time hereafter. I further declare that I am filing this form in my capacity as _____ (designation) having Permanent Account Number (PAN) _____ and that I am competent to file this form and verify it.

Signature]

3[Notes to fill Form No. 10BD]

- Multiple form 10BD may be filed by the same reporting person, as per the procedures laid down by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be.

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2. The address and contact details of the reporting person filing the statement, as per the latest Income Tax Return filed by the reporting person, will be displayed on the screen and if there is a change, the reporting person will be provided an option to change the details.
3. In section code, the section under which donor is allowed to claim deduction for the donation needs to be filled out of the following options:
 - a) Section 80G
 - b) Section 35(1)(ia)
 - c) Section 35(1)(ii)
 - d) Section 35(1)(iii)
4. In "Unique identification number of the donor", one of the following shall be filled:
 - a. If PAN or Aadhaar number is available, one of that should be mandatorily filled and the following ID code shall be filled:

Type of Identification	Code
PAN	1
Aadhaar Number	2

- b. If neither PAN or Aadhaar is available, one of the following should be filled:

Type of Identification	Code
Taxpayer Identification Number of the country where the person resides;	3
Passport number;	4
Elector's photo identity number	5
Driving License number	6
Ration card number	7

-
1. Inserted by the Income-tax (Sixth Amendment) Rules, 2021, w.e.f. **1-4-2021**.
 2. Substituted by the Income-tax (Fourteenth Amendment) Rules, 2022, w.e.f. **9-5-2022**.
 3. Substituted for "Instructions to fill this Form" by the Income-tax (Fourteenth Amendment) Rules, 2022, w.e.f. **9-5-2022**.

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5. In “Donation type”, one of the following needs to be selected:

- a) Corpus
- b) Specific grant
- c) Others

6. In “Mode of receipt”, one of the following needs to be selected:

a)	Cash
b)	Kind
c)	Electronic modes including account payee cheque/draft
d)	Others

7. In case of a donor which have given donations, which are eligible under different sections or which are of different types or in different modes, separate rows should be filled for each such combination.

Sl.No.	Pre Acknowledgement No.	Unique Identification Number of the donor	ID code		Section code	Unique Registration Number (URN)	Date of Issuance of Unique Registration Number	Name of donor	Address of a donor ^d	Donation Type	Mode of receipt	Amount of donation (Indian rupees)
			the do	Nor								

1. In “Donation type”, one of the following needs to be selected:

- a) Corpus
- b) Specific grant
- c) Others

2. In “Mode of receipt”, one of the following needs to be selected:

a)	Cash
b)	Kind
c)	Electronic modes including account payee cheque/draft
d)	Others

3. In case of a donor which have given donations, which are eligible under different sections or which are of different types or in different modes, separate rows should be filled for each such combination.]

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FORM NO. 10BE

(See rule 18AB)

Certificate of donation under clause (ix) of sub-section (5) of section 80G and under clause (ii) to sub-section (1A) of section 35 of the Income-tax Act, 1961

Donee	1	PAN of the reporting person	A	B	C	D	E	1	2	3	4	F	
	2	Name of the reporting person											
	3	Address of the reporting person											
	4	Order number granting approval under section 80G or Notification number under section 35 (Unique Registration Number)											
	5	Date of approval/Notification											
Donor and donations	6	Unique Identification Number	PAN	A	B	C	D	E	1	2	3	4	F
			Aadhaar										
			Other										
	7	Name of Donor											
	8	Address of Donor											
	9	Amount of donation received											
	10	Financial year in which such donation was received											
11	Type of donation	Corpus	<input type="checkbox"/>	Specific grants	<input type="checkbox"/>	Others	<input type="checkbox"/>						
12	Section under which donation is eligible for deduction	Section 80G(5)(vi)	<input type="checkbox"/>	Section 35(1)(ii)	<input type="checkbox"/>	Section 35(1)(iii)	<input type="checkbox"/>	Section 35(1)(iii)	<input type="checkbox"/>				

VERIFICATION

I, son/ daughter of solemnly declare that to the best of my knowledge and belief, the information given in the certificate is correct and complete and is in accordance with the provisions of the Income-tax Act, 1961. I further declare that I am making this certificate in my capacity as _____ and I am also competent to issue this certificate. I am holding permanent account number _____.

Date:

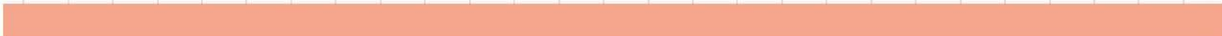
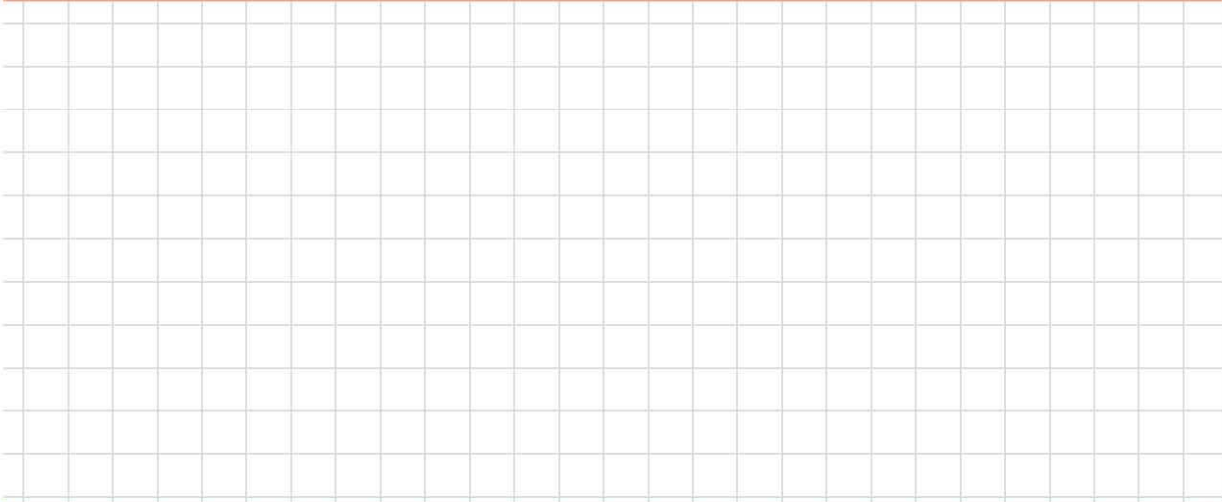
Signature:”;

(iv) Form No. 56 shall be omitted.

[Notification No. 19/2021/ F. No. 370142/4/2021-TPL]

VIPUL AGARWAL, Director (Tax Policy and Legislation Division)

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) *vide* number S.O. 969 (E) dated 26th March, 1962 and were last amended *vide* notification number G.S.R 194(E) dated 16th March, 2021.



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