

CIRCULAR No. 7 / 2018

F.No.197/55/2018-ITA-I
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

North Block, New Delhi
20, December, 2018

Sub: Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form no. 10 and Form No. 9A for AY 2016-17

Under the provisions of section 11 of the Income-tax Act, 1961 (hereafter 'Act') the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust is that the income derived from property held under trust should be applied for the charitable purposes in India. Where such income cannot be applied during the previous year, it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section.

2. The Finance Act, 2015 amended section 11 and section 13 of the Act with effect from 01.04.2016 (A.Y. 2016-17). Consequently, Income-tax Rules, 1962 (hereafter 'Rules') were also amended vide the Income-tax (1st Amendment) Rules, 2016. As per the amended provisions of the Act read with rule 17 of the Rules, while 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions, *inter alia*, that such person submits the prescribed Form No. 10 electronically to the Assessing Officer within the due date specified under section 139(1) of the Act.

3. Further, where the income from the property held under trust and applied to charitable or religious purposes falls short of 85% of the income derived during the previous year for the reason that the income has not been received during that year or any other reason, then on exercise of the option by submitting in Form No.9A electronically by the trust/institution on or before the due date of furnishing the return of income, such income shall be deemed to have been applied for charitable or religious purpose.

4. Representations have been received by the Board/ field authorities stating that the Form No. 9A and Form No.10 could not be filed in the specified time for AY 2016-17, which was the first year of e-filing of these forms. It has been requested that the delay in filing of Form No. 9A and Form No.10 for AY 2016-17 may be condoned under section 119(2) (b) of the Act.

5. Accordingly, in supersession of earlier Circular/Instruction issued in this regard, with a view to expedite the disposal of applications filed by trusts for condoning the delay and in exercise of the powers conferred under section 119(2)(b) of the Act, the Central Board of Direct Taxes hereby authorizes the Commissioners of Income-tax, to admit belated applications in Form No. 9A and Form No.10 in respect of AY 2016-17 where such Form No. 9A and Form No.10 are filed after the expiry of the time allowed under the relevant provisions of the Act.

6. The Commissioners will, while entertaining such belated applications in Form No. 9A and Form No.10, satisfy themselves that the assessee was prevented by reasonable cause from filing of applications in Form No. 9A and Form No.10 within the stipulated time. Further, in respect of Form No. 10 the Commissioners shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of section 11 of the Act.

V. S. Gautam
(Vinay Sheel Gautam)

Under Secretary to the Government of India

Copy to :-

1. PS to FM/OSD to FM/ PS to MoS (R) / OSD to MoS (R)
2. PPS to Secretary(Revenue)
3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Pr. Chief Commissioners/ Pr. Director General of Income-tax/ Chief Commissioner of Income-tax (Exemptions) - with a request to circulate amongst all officers in their regions/ charges.
5. CIT(M&TP), CBDT and Official spokesperson of CBDT.
6. The Additional Director General (PR & PP), New Delhi.
7. ITCC Division of CBDT
8. Data Base Cell - for placing it on www.irsofficersonline.gov.in
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