

Newsflash:

Key Highlights of Changes in Provisions related to Charitable Entities pursuant to Finance Act 2020

22 April 2020



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1.0 Background

- 1.1 Finance Act 2020 had made significant changes to the governance framework for existing as well as new charitable entities'. The changes pertain to:
- a) Procedure for obtaining registration / re-registration for claiming exemption by entities registered under section 12AA of the Income Tax Act, 1961 ('IT Act') as well as for obtaining registration /re-registration under section 80G of the IT Act; and
 - b) Requirement of additional compliances to be made by the charitable entity which is registered under section 80G of the IT Act pertaining to donations made by the donor. The changes would be effective from 1 June 2020.

2.0 Key Amendments made by Finance Act 2020:

- 2.1 A new section 12AB has come into force with effect from 1 June 2020 which will replace the provisions of registration under section 12AA or section 12A of the IT Act.

2.2 For Existing Charitable entities:

- 2.2.1 All the existing registered charitable trusts under section 12A or section 12AA shall be required to make an application of re-registration by 31 August 2020. The registration window shall start from 1 June 2020. Similarly, the provisions of section 80G(5) of the IT Act are amended wherein all registered charitable institutions are required to make an application for re-registration starting from 1 June 2020 till 31 August 2020. If such institutions fails to make re-registration application, then implications u/s 115TD of the IT Act may arise. The same is explained in details in later part of this Newsflash. Notably, under the existing provisions registration u/s 12AA and u/s 80G(5)(vi) were granted without any validity.

2.2.2 From 1 June 2020 onwards, the grant of registration u/s 12AB and u/s 80G(5)(vi) shall be for a period of 5 years by the Principal Commissioner of Income-tax (PCIT) or Commissioner of Income-tax (CIT).

2.3 For New Charitable Entities:

2.3.1 A new charitable entity can make an application for provisional registration u/s 12AB and u/s 80G(5)(vi) to PCIT/CIT which shall be granted for a period of 3 years. Such institutions are required to make a further application earlier of the following:

- 6 months prior to end of provisional registration or
- within 6 months from commencement of activities

2.4 Application already made and is in Process as on 1 June 2020:

2.4.1 A charitable institution which has already made an application for registration u/s 12AA of the IT Act or u/s 80G(5)(vi) of the IT Act and such application is in process as on 1 June 2020, then such institution shall be given a provisional registration.

2.5 Subsequent Renewals post Registration:

2.5.1 The Charitable entities which would be registered u/s 12AB and u/s 80G(5)(vi) shall be required to make an application for renewal of the application 6 months prior to expiry of the said period.

2.6 The following are special circumstances in which application for registration is made:

2.6.1 Where a charitable institution has modified the objectives, then application u/s 12AB of the IT Act shall be made within a period of 30 days from the date of such modification.

2.6.2 Where registration u/s 12AB of the IT Act of the Trust or institution has become inoperative, then application shall be made at least 6 months prior to the commencement of the assessment year from which registration is to be made operative.

2.6.3 In any other case for registration u/s 12AB and u/s 80G(5)(vi) of the IT Act shall be made at least 1 month prior to the commencement of the previous year relevant to the assessment year from which the registration is sought.

3.0 Implications of not obtaining re-registration by existing charitable institutions by 31 August 2020:

- 3.1 If an existing eligible charitable institution for deduction fails to make an application for re-registration within 3 months from 1 June 2020, then as per provisions of section 115TD of the IT Act, it may be regarded as converted into any form which is not eligible for grant of registration u/s 12AB of the IT Act.
- 3.2 In case of such an entity, in addition to the income-tax chargeable in respect of the total income of such trust or institution, the accreted income of the trust or the institution as on the specified date shall be charged to tax and such trust or institution, as the case may be, shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.
- 3.3 The accreted income for this purpose means the amount by which the aggregate fair market value of the total assets of the trust or the institution, as on the specified date, exceeds the total liability of such trust or institution computed in accordance with the method of valuation as may be prescribed.
- 3.4 As such, it is imperative for all existing charitable institutions to make an application for re-registration by 31 August 2020.

4.0 Reporting obligation by the exempt entity receiving donation:

- 3.1 In the existing regime, 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 felt that, 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 is expected to be similar to the provisions relating to the tax collection/ deduction at source (similar to Form 26AS), which already exist in the IT Act.
- 3.2 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. In order to ensure proper filing of the statement, levy of a fee and penalty may also be provided in cases where there is failure to furnish the statement.

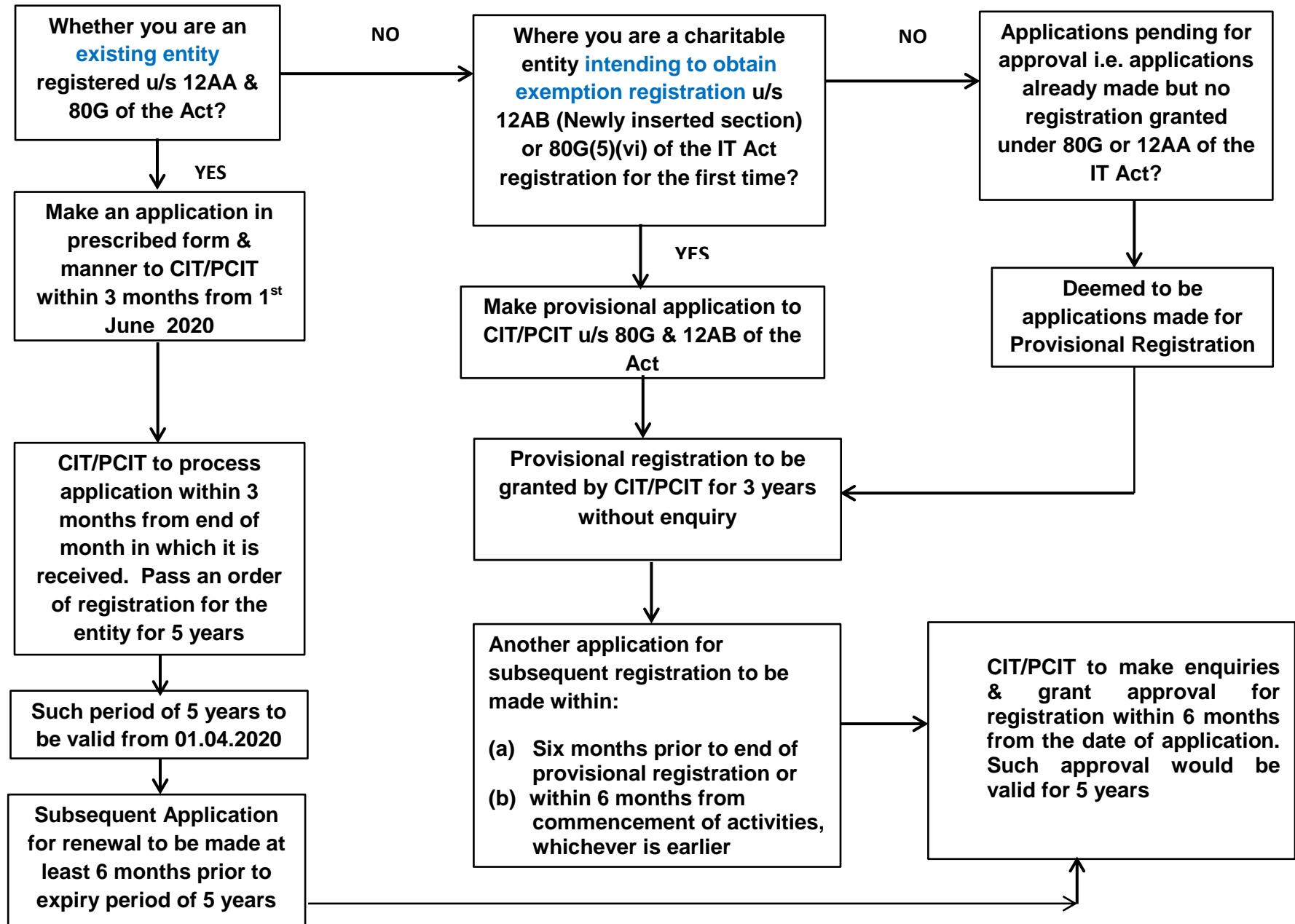
5.0 Cash Donation u/s 80GGA restricted to Rs. 2,000/- only:

- 5.1 Further, deduction of cash donation under section 80GGA of the IT Act is restricted to Rs 2,000 only. The earlier limit was Rs. 10,000

6.0 Filing of Audit Report

- 6.1 In case of registered charitable trusts and institutions, the Audit Report u/s 12A (b) of the IT Act shall be filed within 1 month prior to the due date of filing of return of income under section 139(4A) read with section 139(1) of the IT Act. The due date for filing return of income for registered trusts is amended to 31 October and as such, the due date for filing of audit report would be 30 September.

7.0 A pictorial presentation of registration requirements applicable to charitable institutions is as under:



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This newsflash is general in nature. In this newsflash, we have summarized and provided key highlights of changes in provisions related to Charitable Entities pursuant to Finance Act 2020. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said notification and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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