

## INCOME TAX - PRIVILEGES TO THE DONORS U/S 35AC

Source: [www.incometaxformgos.org](http://www.incometaxformgos.org)

### INTRODUCTION

01 As we already know that an NGO can avail income tax exemption by getting itself registered and complying with certain other formalities, but such registration doesn't provide any benefit to the persons making donations. The Income Tax Act has certain provisions which offer tax benefits to the "donors". All NGOs should avail the advantage of these provisions to attract potential donors. Section 35AC is one of such sections.

### REGISTRATION UNDER SECTION 35AC

02 The Central Government approves certain NGOs and notifies them as eligible for project or schemes for the purposes of section 35AC. If an NGO succeeds in getting such an approval for its projects then it stands a very good chance of mobilising funds from the corporate and the business sector. Business houses making contribution to such approved projects are allowed the benefits of deducting such contribution as expenditure.

### NATIONAL COMMITTEE

03 The Central Government has constituted a National Committee to identify projects and schemes to be notified under section 35AC, such committee normally consists of eminent persons. All NGOs are entitled to apply to the National Committee to get its projects or schemes approved.

### WHERE THE APPLICATION IS TO BE MADE

04 The application for approval by the National Committee should be made to the Secretary, National Committee for Promotion of Social & Economic Welfare, Dept. of Revenue, Govt. of India, North Block, New Delhi - 110001.

### THE APPLICATION AND ITS ENCLOSURE

- i) The application is to be made in 2 Sets, written either in Hindi or English.
- ii) Details such as name, address and status of applicant, the district/ ward circle where assessed/PAN number.
- iii) Audited Balance Sheet, Profit & Loss Account or Income & Expenditure Account for the latest year and two preceding years.
- iv) How is it constituted i.e. whether as a trust, society, etc supported by relevant

documents like trust deed, rules & regulation, memorandum of association etc. and registration certificate, if any.

v) Name & Addresses of the persons managing the affairs of the association or institution, including those who left the organisation but were managing the affairs of the association or institution during the 3 years preceding the date of application.

vi) If the association or institution is notified under section 10(23)(C) or is approved for the purposes of section 80G, the particulars of such approval granted.

vii) Brief particulars of the activities of the association or institution during 3 years preceding the date of application or since inception if the association or institution is less than 3 years old.

viii) Such other information as the association or institution may like to place before the National Committee.

#### ADDITIONAL INFORMATION REGARDING THE PROJECT/SCHEME TO BE SUBMITTED

(i) Title of project or scheme;

(ii) Date of commencement;

(iii) Duration and the likely date of completion;

(iv) Estimated cost of the project ;

(v) Category or class of persons who are likely to be benefited from the project or scheme;

(vi) Affirmation that no benefit from the project or scheme other than remuneration or honorarium, will accrue to persons managing the affairs of the NGO ;

(viii) Such other particulars as the applicant may place before the National Committee.

#### CERTIFICATE TO BE ISSUED TO THE DONOR

05 All approved NGOs are required to issue a certificate to the donor for all contributions & receipts under section 35AC. The certificate is to be issued in Form 58A.

06 This certificate will enable the donor to claim exemption from its taxable income. Further, the NGOs should also send an Annual Report to the National Committee indicating the progress of the work relating to the project/scheme and the following

informations in respect of each contributor :

- i) name of the contributors & their addresses.
- ii) PAN.
- iii) amount of contributions.
- iv) the project/scheme for which the contribution is made.
- v) total amount of contribution received during the year.
- vi) total cost of the project approved by the National Committee.

07 Such Annual Report should reach the National Committee by 30th June, following the financial year in which the amount is received.

#### DEDUCTION OF CONTRIBUTION UNDER SECTION 80GGA

08 Section 35AC is available to assessees who have income from the head 'business' or 'profession'. Therefore, for the assessees who do not have income from business or profession, section 80GGA provides for deduction on donations made to eligible projects under section 35AC. Section 80GGA, is a broader section and deductions are also available for contributions made for scientific research under section 35CCA & 35CCB, which have been withdrawn. 100 per cent deduction is available under section 80GGA, subject to the available gross total income under section 80A. Therefore, unlike section 35AC, deduction under section 80GGA cannot be carried forward in the form of losses to next year .

#### OVERALL SUMMARY

09 To sum up the discussions :

- i) Under section 35AC, organisations having income from business or profession can get 100 per cent deduction. Charitable Organisations can get registered themselves u/s. 5AC by applying to the National Committee under rule 11F to 11-O, if they are carrying on any business.
- ii) The Central Government has specified various types of projects of national needs for which Charitable Organisations can make donations.
- iii) Business houses making donations for the purpose of section 35AC, should be careful that the donee organisation continues to enjoy approval u/s. 35AC. As the approval under section 35(AC) is not permanent in nature.

- iv) To get approval u/s. 35AC two sets of application have to be made alongwith specified enclosures to secretary of National Committee, New Delhi.
- v) The National Committee may recommend or reject the project but when the approval is recommended then it is for a period of maximum 3 years and it could be further extended if the National Committee is satisfied with the performance during the period.
- vi) A certificate has to be issued to the donor in Form 58A. This certificate will enable the donor to claim exemptions.
- vii) The National Committee may withdraw the approval if the project is not carried out in accordance with the approved conditions. To withdraw a project National Committee should provide an opportunity of being heard to the aggrieved organisation.
- viii) Section 35AC provides deduction from income from business and profession. Similar deduction is also available u/s. 80GGA, for assessees having income from other heads.