

Registration of an NGO for Income Tax Exemption u/s 12A

Introduction

NGOs have multiple options to select the form of constitution, like trust, society and section 8 company. In order to claim exemptions under section 11 & 12 of Income Tax Act, 1961, it is mandatory for all NGOs to get registration under section 12A of the act. "It is important to note here that notwithstanding the fact that trust, society and section 8 companies are registered as per their respective acts, the registration under section 12A is necessary to claim exemption under Income Tax Act."

Earlier registration under 12A was given as one-time registration and once the registration is granted it will hold good till cancellation. From 1st April 2021, all new registration will be given for 5 years only and organisation has to apply for renewal after each 5 years.

New Registration (As amended by Finance Act, 2020)

An application for fresh registration under section 12A will be given to Principal Commissioner or Commissioner, as per provisions of section 12AB. A provisional registration for 3 years will be given to organisations. The registration once granted shall be valid for three years from the Assessment Year from which the registration is sought. Application for renewal of such new registration needs to be submitted:

- at least six months prior to the expiry of validity period, or
- within 6 months from commencement of activities,

whichever is earlier.

The provisional registration so granted shall be valid for a period of 3 years and hence needs to be renewed at the end of the above mentioned timelines. The registration so renewed shall be valid only for 5 years and needs to be renewed at the end of each 5 years.

Important Note: In cases of new registration, application shall be submitted, at least one month prior to the commencement of the previous year relevant to the assessment year for which registration is sought, meaning thereby new NGO will not be entitled to have the benefit of registration of section 12AB in the first year of operation.

Migration of Existing Registrations (As Amended by Finance Act, 2020)

All registered NGOs are required to apply for re-validation in Form No. 10A before 31st March 2022. Registration so re-validated shall be valid only for 5 years. The application for the renewal of registration (after five years) needs to be submitted at least six months prior to the expiry of validity period. The renewal application will be submitted in the Form No. 10AB.

No Simultaneous Benefits for NGOs u/s 12A and 10 (23C) (As Amended by Finance Act, 2020)

Where any organisation's registration has become non-operative due to simultaneous exemptions in various other sections [10(23C)] in that case, it has to reapply under section 12AB. The registration will be given for 5 years, has to be renewed in every five years. The application to be submitted at least 6 months prior to expiry of registration.

Change or Modification of Objects Clause of NGOs (As Amended by Finance Act, 2020)

Where an organisation has been granted registration and subsequently, there is change or modification of objectives of that organization, then it has to re-apply for registration with modified or changed objectives under section 12AB. The registration will be given for 5 years and needs to be renewed in every five years. The application for registration shall be submitted within 30 days from such change in objectives.

Forms and Timelines

Category	Forms	Timeline to make application
Trusts already approved/ registered and their approval/ registration is continuing an on 01-04-2021.	10A	On or before 31-03-2022
Trusts making application for provisional registration/ approval	10A	One month before the commencement of the Assessment year from which the registration is sought.
Conversion of provisional registration into regular registration	10AB	At least 6 months before the expiry or within 6 months of commencement of its activities, whichever is earlier.
Renewal of registration/ approval after five year said registration period.	10AB	At least 6 months prior to expiry of the said registration period

Application Procedure & Documents Required

In order to claim exemption, an NGO should make an application to the Principle Commissioner or Commissioner of Income Tax online in Form 10A by following below mentioned steps:

- a) Log on to the E-filing portal of IT department vide <https://www.incometaxindiaefiling.gov.in/home>
- b) Go to “Income Tax Forms” under e-File tab.
- c) Select the Form Name as “Form 10A” and relevant Assessment Year from the drop down list.
- d) Select the option of “Prepare and Submit Online” in submission mode.
- e) Fill in the details as required in the form and attach the required and applicable attachments.
- f) Submit the form using digital signatures or EVC as required while return filing.

The application shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the applicant. The following documents are required to be submitted:

- a) Self-certified copy of incorporation document of Trust/ Societies (created under instrument or otherwise),
- b) Self-certified copy of registration with Registrar of Companies or Registrar of Firms or societies or Registrar of Public Trusts, as the case may be,
- c) Self-certified copy of registration under FCRA, if the applicant is registered under such Act,
- d) Self-certified copy of existing order of registration under section 12A or 12AA or 12AB, as the case may be,
- e) In case of existing entities, copies of annual accounts for the period not exceeding 3 years immediately preceding the year in which the application is made,
- f) Where the income of the entity includes profits and gains of business as per the provisions of sub-section (4A) of section 11, copies of annual accounts and audit report u/s 44AB for 3 years immediately preceding the year in which the said application is made,
- g) Self-certified copy of the documents evidencing adoption or modification of the objects,
- h) Notes on the activities of the applicant trust or institution,
- i) If registered on DARPAN Portal, then details of such registration.

Mandatory Requirement of Darpan ID

The organisations applying for registration/ revalidation as per the amended provisions of section 12A, is mandatorily required to give the details of its Registration number with Darpan portal of Niti Aayog.

This is also mandatory in the situation where the applicant organisation receives or intends to receive any grant or assistance from either the Central Government or state Government.

Issuance of Certificate of Registration or Order of Rejection

On receipt of the application under 10A, the PCIT or CIT shall pass an order in writing granting approval in Form No. 10AC and issue a sixteen-digit alphanumeric Unique Registration Number (URN) to the applicants. The PCIT/ CIT is also entitled to demand further documents from the applicant, if the need for the same is felt, or may reject the application after giving an opportunity of being heard. The rejection order will also be passed in Form No. 10AC. The registration accorded to the NGO will be valid as per the new provisions of Act amended through Finance Act 2020.

On receipt of application under 10AB, the order of registration or rejection or cancellation of registration shall be in Form No. 10AD and in case if the registration is granted, sixteen-digit alphanumeric number URN shall be issued by the PCIT or CIT. In this case also, PCIT/ CIT is entitled to demand further documents from the applicant to satisfy himself about the genuineness of activities of the trust or institution and the compliance of such requirements of any other law for the time being in force by the trust or institution as are material to achieve its objects.

To summarize the above, we can say that the timelines to issue order to grant registration/ provisional registration/ revalidation of existing registrations are as follows:

Category of entity	Time limit for filing application for registration	Time limit for passing order
Migration from section 12A/ 12AA to section 12AB.	Migration from section 12A/ 12AA to section 12AB.	Within 3 months from the end of the month in which the application is received.
In any other case (including fresh provisional registration).	At least One month before commencement of the previous year relevant to assessment year from which the said registration is sought.	Within One month from the end of the month in which the application is received.
Trusts or institutions which are registered under section 12AB and the period	At least 6 months before the expiry of the said period.	Within 6 months from the end of the month in

Category of entity	Time limit for filing application for registration	Time limit for passing order
of the said registration is due to expire.		which the application was received.
Trusts opting for provisional to final registration for 5 years.	At least 6 months before the expiry of the provisional registration or within 6 months of commencement of its activities, whichever is earlier.	Within 6 months from the end of the month in which the application was received.
Trusts or institutions whose registration has become inoperative.	At least 6 months before the commencement of the assessment year from which the said registration is sought to be made operative.	Within 6 months from the end of the month in which the application was received.
Trusts or institutions who has adopted or undertaken modifications of the objects which do not conform the conditions of registration.	Within a period of 30 days from the date of adoption or modification.	Within 6 months from the end of the month in which the application was received.