

INCOME TAX BILL, 2025

First look into the Provisions relating to NPOs

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About the Income Tax Bill, 2025 (ITB)

- Union Budget 23.07.2024 – FM announced a comprehensive review of the Income Tax Act in 6 months
 - To make it concise, clear and easy to read and understand;
 - To reduce disputes; and
 - To ensure tax-payer certainty.
- Union Budget 01.02.2025 – FM stated that the ITB will be tabled within a week.
- The bill was tabled in parliament on 13.02.2025

ITB vs ITA statistics

- Statistics
 - Word count: 2.56 lakhs in ITB vs 5 lakhs plus in ITA
 - Sections reduced: 911 in ITA to 536 ITB
 - Schedules increased: 11 to 16
 - Eliminates: 300+ redundant provisions
- Notable Structural Changes:
 - In ITB there are no 'provisos' or 'explanations'. These are replaced with logical sub-sections / clauses.
 - Definitions are consolidated under Section 2 (112 clauses).
 - Term "previous year" replaced with the word "tax year"
 - "assessment year" means the year subsequent to "tax year"
- Separate chapter is inserted in ITB vis-à-vis taxation of trusts, which, at present, is scattered in sections 11 to 13 and other sections.
(Clauses 332 to 355)

Introduction to taxation of NPOs in ITB

- ITB introduces a new taxation framework for Non-Profit Organisations (NPOs).
- The term "NPO" is newly introduced to replace the term "trust". However, the term NPO is not defined in the ITB.
- NPO implies any entity operating without profit motive and registered under the ITB.
- Sections 11 to 13, Section 80G and provisions relating to accreted income, anonymous donations, tax in the case of specified violations etc. under the ITA are proposed to be omitted and these are attempted to be consolidated in one place .
- A simplified framework that focuses on clarity, certainty, and ease of compliance – That's what the makers claim.

Scheme of Sections under ITB for NPOs

Definitions	2(23)	Charitable Purpose
Registration of NPOs	332	Application for Registration
	333	Switching over of Regimes
Computation and Taxation of Income	334	Tax on Income of Registered NPO
	335	Regular Income
	336	Taxable Regular Income
	337	Specified Income
	338	Income not to be included in Regular Income
	339	Corpus Donation
	340	Deemed Corpus Donation
	341	Application of Income
	342	Accumulated Income
	343	Deemed Accumulated Income

Scheme of Sections under ITB for NPOs

Commercial Activities	344	Business Undertaking held as Property
	345	Restriction on Commercial Activities by Registered NPO
	346	Restriction on Commercial Activities by Registered NPO (GPU)
Compliance Requirements	347	Books of Account
	348	Audit
	349	Return of Income
	350	Permitted Modes of Investment
Violations and Consequences	351	Specified Violation
	352	Tax on Accreted Income
	353	Other Violations
Approval for Deduction	354	Application for Approval under Section 1(1)(b)(ii)
Other Provisions	355	Interpretation of Expressions for the Purposes of the Chapter
Consequential Amendments	-	Amendments to Sections 2(49), 92, 129, 133, 206, 270, 445 of ITB (reference to NPO)

Definition of Charitable Purpose (Clause 2(23) of the ITB)

- Charitable Purposes include:

- (a) Relief of the poor
- (b) Education
- (c) Yoga
- (d) Medical relief
- (e) Preservation of the environment (including watersheds, forests, wildlife)
- (f) Preservation of monuments/places/objects of artistic or historic interest
- (g) Advancement of any other object of general public utility (GPU)

- Section 2(15) of the ITA has a proviso restricting charitable status if an NPO engaged in trade, commerce, or business activities (except if receipts $\leq 20\%$ of total). In the ITB, the restrictive proviso is omitted from the definition.

- However, clause 346 of ITB separately addresses restrictions on commercial activities for NPOs engaged in GPU activities.

Application for Registration

- **Clause 332** governs the **registration process** for NPOs under the Income-tax Bill (ITB).
- To qualify as a **registered Non-Profit Organisation (NPO)**:
 - An application must be submitted to the **Principal Commissioner or Commissioner of Income Tax**.
 - The application must be filed in the **prescribed form and in the prescribed manner**.
 - PCIT/CIT has power to condone delay when application is filed belatedly provided the assessee demonstrates a reasonable cause for the delay. If delay is not condoned, the NPO may be subject to exit tax on accreted income u/c 352.

Registration contd... - Who Can Apply for Registration (Clause 332 - ITB)

- (a) Public Trusts. (what about present registrations that are neither trust/society. E.g. churches)
- (b) Societies registered under the **Societies Registration Act, 1860** or equivalent laws in India.
- (c) Companies registered under: **Section 8 of the Companies Act, 2013**, or **Section 25 of the Companies Act, 1956**.
- (d) Universities or educational institutions established by law or recognised by the Government.
- (e) Institutions wholly or partially financed by the Government or a local authority. Presently not required to take registration u/s 10(23C)(iiiab) and (iiiac). Now they have to take registration and satisfy other conditions including 85% application of income, audit etc.
- (f) Persons referred to in *(switching over of regimes)*:
 - **Schedule III** (Table: Sl. No. 27–29, 36) and
 - **Schedule VII** (Table: Sl. No. 10, 19, 42).
- (g) Any other person notified by the Board.

Registration contd... - Eligibility Criteria for Registration (Clause 332 - ITB)

- An entity shall be eligible for registration if it meets **both** of the following conditions:

(a) It is constituted, registered, or incorporated in India to carry out:

- One or more **charitable purposes**, or
- **Public religious purposes**, or
- Both.

*The ITB **explicitly allows** NPOs to engage in **multiple charitable purposes**.*

(b) Its properties are held under an irrevocable trust:

- **Wholly** for charitable or religious purposes, or
- **Partly** for such purposes if constituted, registered, or incorporated **before** the commencement of the **Income-tax Act, 1961**.

Registration contd... - Time limits for filing application

Category	Description	Time limit to apply	Time limit to pass order	Validity of registration
Provisional registration	For entities that have not yet commenced activities and were never registered under any specified provision	Any time during the tax year from which registration is sought	3 months from the end of the month in which the application is made	Max 3 tax years from the tax year in which the application is made
Regular registration	For entities that have commenced activities but were never registered under any specified provision	Any time during the tax year from which registration is sought	6 months from the end of the quarter in which the application is made	5 tax years from the tax year in which the application is made
Conversion of provisional to regular registration (post commencement of activity)	For entities with provisional registration that have commenced activities	Within 6 months of the commencement of activities	6 months from the end of the quarter in which the application is made	5 tax years from the tax year in which the application is made

Registration contd... - Time limits for filing application

Category	Description	Time limit to apply	Time limit to pass order	Validity of registration
Conversion of provisional to regular registration (provisional registration period is due to expire)	For entities whose provisional registration is expiring but have not commenced activities	At least 6 months prior to the expiry of provisional registration	6 months from the end of the quarter in which the application is made	5 tax years following the year in which the application is made
Renewal of regular registration	For entities whose regular registration is due to expire	At least 6 months prior to the expiry of registration	6 months from the end of the quarter in which the application is made	5 tax years following the year in which the application is made
Reactivation of registration (after switching exemption regime)	For entities whose registration became in-operative due to a regime switch	Any time during the tax year from which reactivation is sought	6 months from the end of the quarter in which the application is made	5 tax years following the tax year in which the application is made
Re-registration on modification of Objects. (now form has to be filed but no re-regn warranted)	If a registered NPO has adopted or undertaken any modification of its objects	Within 30 days of the date of such adoption or modification	6 months from the end of the quarter in which the application is made	5 tax years following the tax year in which the application is made

Registration contd... - Time limits for filing application

Existing Provision (Section 12AB of the Income Tax Act, ITA):

- Registration to charitable trusts or institutions is granted for **five years**.
- If activities have **not commenced** at the time of application, a **provisional registration** is given for **three years**.

Finance Act 2025, however, has already amended ITA to the effect mentioned below

Proposed Change (Clause 332 of ITB):

If the total income of smaller NPOs **does not exceed Rs. 5 crores** in **each of the two financial years** immediately before the application year, then the registration validity is proposed to be **extended from five years to ten years**.

Important Exception: This extended ten-year registration **does not apply** to NPOs applying for **the first time**, regardless of whether they have started activities.

Registration contd... - Procedure on receipt of application

Provisional Registration:

When an application is made for provisional registration, the Principal Commissioner or Commissioner must **grant the registration**. (no enquiry)

For Applications Other Than Provisional Registration: The Principal Commissioner or Commissioner **may**:

- (a) Request documents, conduct inquiries, and assess compliance with applicable laws related to achieving the objectives.
- (b) If satisfied with the objects, genuineness of activities, and legal compliance, **grant registration** through a **written order**.
- (c) If **not satisfied**, issue a **written rejection order**, but only **after giving the applicant an opportunity to be heard**.
- (d) If rejecting a **subsequent application** (like conversion of provisional registration, renewal, or re-registration due to object modification), **cancel the registration** as well.

Communication:

A copy of the order (whether acceptance or rejection) must be communicated to both the applicant and the Assessing Officer.

Registration contd... - Procedure for entities regd. prior to 01.04.2021

Background:

- Earlier, entities were given **perpetual registration** under the Income Tax Act.
- Effective **01-04-2021**, **all existing trusts and institutions** registered under earlier provisions must **obtain registration under Section 12AB** to continue getting **tax exemptions**.

Deadline:

- The last extended deadline for filing the application for re-registration is **30 June 2024**.
- If an entity registered under the ITA (Income Tax Act) **before 01-04-2021** failed to apply by **30-06-2024**, it can still submit an application afterward.
- Condonation of delay** is possible if a **reasonable cause** is shown. (i.e., the Principal Commissioner or Commissioner can condone the delay.)
- The same scheme retained in ITB

Processing and Validity:

- Registration will be granted **within three months** from the end of the month in which the application is filed.
- The registration will be **valid for five years**, starting from the **tax year 2021-22**.

Switching Over of Regimes (Clause 332 and 333 of ITB)

Registered NPOs cannot claim exemption under Clause 11 (exempt income – a kin to present section 10 of ITA) of ITB **except** for specific Schedules:

- Schedule II (Table: Sl. No. 1),
- Schedule III (Table: Sl. No. 27, 28, 29),
- Schedule VII (Table: Sl. No. 10, 36, 42, 43, 44, 45).

I.e., at present a registered trust can claim only agri income and 10(23C)

When registration ceases:

Registration under Clause 332 ceases either:

- From the date the NPO is notified under Schedule III or VII, or
- From the 1st April of the tax year when exemption is claimed.

Post-Cessation:

- An NPO whose registration ends may **reapply** for registration.
- The **new registration** must be under Clause 332.
- **Exemption** continues only after new registration is granted — otherwise, the NPO loses exemption rights.
- **Provision under Clause 333** mirrors **Section 11(7)** of the Income Tax Act (ITA).

Switching Over of Regimes (Clause 332 and 333 of ITB)

Schedule	Table Sl. No.	What it Generally Covers
Schedule II	Sl. No. 1	Educational institutions, hospitals, and medical institutions approved under specific government rules.
Schedule III	Sl. No. 27, 28, 29	Specific government bodies, boards, authorities, or institutions set up under law (for infrastructure development, municipal governance, or welfare).
Schedule VII	Sl. No. 10, 36, 42, 43, 44, 45	Various activities like scientific research, charitable purposes, public welfare trusts, and religious trusts notified by the government for exemptions.

Tax on Income of Registered NPO (Non-Profit Organization) - Clause 334 of ITB

Computation of Tax Payable by Registered NPO:

- **(a) A 30% tax rate** is applied on **specified income** for that tax year.
- **(b) Applicable rates** are applied on **taxable regular income** and **any residual income** under other provisions of the Act.

The ITA does **not have a uniform provision** for taxing NPO income. Instead, it referred to different sections:

- **Section 115BBI**: Income from **specific non-compliances** taxed at **30%**.
- **Section 115BBC**: **Anonymous donations** received by charitable organizations taxed at **30%**.
- **Section 164(2)**: Certain other incomes taxed as an **AOP** (Association of Persons) or at the **maximum marginal rate**.
- **Clubbing Provisions**: Earlier under **Section 11(1)** (referring to Sections **60 to 63**) but now shifted to **Clause 334(2) of ITB**.

Consolidation under ITB:

- Clause 334 of ITB **centralizes** the tax provisions for registered NPOs.

What constitutes regular income

Category	Details	Examples
Activity Income	Receipts from charitable or religious activities carried out by the NPO during the tax year.	<ul style="list-style-type: none"> - School fees (educational institution) - Patient fees (medical/healthcare institution) - Training fees (skill development programs) - Receipts from charitable program implementation
Income from Property or Investments	Receipts (other than from commercial activities) derived from property or investments held by the NPO.	<ul style="list-style-type: none"> - Rental income from a property - Interest or dividend income
Voluntary Contributions	Donations or voluntary financial contributions received by the NPO other than corpus donations.	<ul style="list-style-type: none"> - Donations from individuals or organizations
Business Held as Property and Incidental Business Income	Gains from commercial activities (not restricted under specific ITB clauses) carried out by the NPO.	<ul style="list-style-type: none"> - Sale of products made by beneficiaries - Fees from incidental commercial events

Taxability of regular income

Type	Condition	Tax Treatment
Nil Income	If 85% or more of the regular income is applied or accumulated for charitable or religious purposes as per clause 342 of ITB.	No taxable regular income (i.e., Nil).
Taxable Income	If less than 85% of the regular income is applied or accumulated for charitable or religious purposes.	The shortfall (i.e., the amount not applied / accumulated) becomes taxable regular income.

Additional Important Points:

- In ITA income needs to be applied **within India**. This point is not seen in ITB. Now the ITB simply says "income is applied" without specifying "within India".
- However, under ITB, **income applied outside India** is taxed at a special **30% rate** (classifying it as "specified income" under Clause 338(a)).
- So there is nothing much to rejoice.

Taxability of specified income

Anonymous donation (except NPOs wholly for religious purposes, up to ₹1,00,000 or 5% of total donations, whichever is higher)	Tax year in which the anonymous donation is received.
Income applied for benefit of related person	Tax year in which such application is made.
Income applied for charitable/religious purposes outside India	Tax year in which such application is made.
Investment made in contravention of Clause 350 of ITB	Tax year in which such investment is made.
Deemed corpus donation violating Clause 340 of ITB	Tax year in which such violation occurs.
Accumulated income applied for non-charitable/non-religious purposes	Tax year in which such application occurs.
Accumulated income ceasing to be accumulated for specified purposes	Tax year in which it ceases to be accumulated.
Accumulated income not utilized within the specified period	The last tax year for which the income was accumulated or set apart.
Accumulated income credited or paid to another NPO	Tax year in which such credit or payment is made.
Income applied for other than charitable or religious purposes	Tax year in which such application occurs.
Income determined by Assessing Officer under Clause 344 in excess of disclosed income	Tax year to which such income relates.

Analysis of other computation provisions

Topic	ITA ref	ITB ref
Corpus donations are excluded from income subject to conditions like direction from donor, investment in specified mode, disallowance if applied therefrom etc.	11(1)(d), 11(5)	339, 338 (b), 350
Application of 85% of income for charitable or religious purposes in line with the approved objects of the registered NPO	11(1)	341(1)
Application of income shall be allowable only on actual payment basis	Explanation to 11(7)	341(a)(1)
Application of income shall be subject to 30% disallowance in cases of non deduction of TDS or 100% disallowance in cases of cash payment > Rs. 10,000	Explanation 3 to 11(1), 40(a)(ia), 40A(3)	337(a)(ii), 36(4), 36(5), 36(6), 36(7)
Only 85% of the donation paid to another registered NPO will be allowed as application.	Explanation 2 to 11	341(1)(c)

Analysis of other computation provisions

Topic	ITA ref	ITB ref
Amount paid as corpus donation to another registered NPO is not regarded as application to the donor NPO	Explanation 2 to 11	341(1)(c)
Restoration within 5 years of application, the amount applied on or after 01.04.2021 from corpus donation is allowed as application of income	Explanation 4(i) to 11(1)	341(2)(a)
Repayment within 5 years of application, the amount applied on or after 01.04.2021 from amounts borrowed is allowed as application of income	Explanation 4(ii) to 11(1)	341(2)(b)
When cost of asset is claimed as application of income, then depreciation on such asset is not allowable	11(6)	341(3)
No set off, deduction or allowance for excess application of income from previous year is permitted	Explanation 5 to 11(1)	341(3)

Analysis of other computation provisions

Topic	ITA ref	ITB ref
<p>Amounts applied from the following sources are not considered as application</p> <ul style="list-style-type: none"> • Corpus donation • Loans and borrowings • Accumulated income • Deemed accumulated income • Specified income 	11	341(4)
<p>Accumulation – for maximum 5 years – for specific purpose(s) – file declaration on or before ITR due date</p> <p>ITA provides for filing Form 10 within 2 months prior to 139(1) due date, which is relaxed by circular 6/2023.</p>	11(2), 139(1)	342(1), 263(1)
Amount transferred to another registered NPO from such accumulated funds will not be permissible	Explanation to 11(2), 11(3)(d)	342(2)
Amount shall be invested in specific modes	11(2), 11(5)	342(4), 350
NPO can take approval from AO to change the purpose of accumulation	11(3A)	342(5), 342(6)

Analysis of other computation provisions

Topic	ITA ref	ITB ref
<p>In the following situations, accumulated income will be deemed as taxable income and is likely to attract 30% tax</p> <ul style="list-style-type: none"> • Applied for any other purpose • Amount ceases to be set apart • Amount not applied within 5 years • Donation to other NPOs from accumulated income 	11(3), 115BBI	342, 334, 337
Upon dissolution of a registered NPO, accumulated income can be transferred to another registered NPO subject to approval by AO	2 nd proviso to 11(3A)	342(7)
Statutory accumulation up to 15% of income is permissible without any condition. This shall be invested or deposited in specified modes. (presently not expressly provided for)	11(1)	338, 350
Cases where income could not be applied because the same was not received or any other reason – File Form 9A within the stipulated time – apply in the year of receipt etc	Explanation 2 11(1)	NOT SEEN

Business undertaking held under trust

- Clause 344 of the ITB permits a registered NPO to hold business undertaking as part of its property held under trust. It also empowers the AO to determine the income of such business in accordance with the relevant provisions of the ITB.
- As per Section 11(4) of the ITA, if income determined by the AO exceeds the income reported in the books, such excess would be deemed as applied for non-charitable / non-religious purposes and such excess would be taxed.
- Clause 337 of ITB treats such excess income determined by the AO as specified income and clause 336 of ITB proposes to tax it at 30%

Commercial activities by NPO

- Commercial activities by NPOs carrying on charitable purposes other than objects of GPU (ITB 341 – ITA 11(4A))
 - Commercial activity shall be incidental to attainment of main object
 - Separate books shall be maintained for such activity
 - *These two points are not seen vis-à-vis an NPO doing GPU!!!*
 - *Section 11(4A) also does not have these two points. Fallout in AUDA case*
- Commercial activities by NPOs carrying on GPU objects (ITB 346, 355 – ITA proviso to 2(15))
 - The commercial activity shall be carried out only in the course of GPU objects
 - Aggregate receipts from the commercial activities shall not exceed 20% of total receipts
 - Separate books shall be maintained for commercial activities.
 - Commercial activities are defined in clause 355 which is at par with proviso to S 2(15) of ITA

Books of accounts

- **Clause 347 of ITB** – Where total income of the NPO (before claiming exemption) exceeds the basic exemption limit – it shall keep and maintain such books of accounts and other documents in the prescribed form, manner and location
- The same requirement is there in ITA Section 12A(1)(b)(i) and Rule 17AA

Audit of NPOs

- **Clause 348 of ITB** – Where total income of the NPO (before claiming exemption) exceeds the basic exemption limit – its accounts shall be audited and the audit report shall be furnished within the specified date. **It seems ITB is silent about this specified date.**
- The same requirement is there in ITA Section 12A(1)(b)(ii). Specified date is 1 month prior to the ITR due date u/s 139(1). Audit report forms are Form 10B or 10BB, as the case may be.

Filing of return of income

- **Clauses 349, 263(1)(a)(iii), 263(1)(b) of ITB** – Where total income of the NPO (before claiming exemption) exceeds the basic exemption limit – file return of income within the specified date.
- The same requirement is there in ITA Section 12A(1)(ba), 139(4A), 139(1), 139(4). i.e. even belated return is eligible for exemption.
- **It seems under the ITB, belated return is not eligible for exemption. Remedy shall be applying for condonation.**

Permitted modes of investment

- Clause 350 of ITB
Funds shall be invested or kept deposited either as specified in Schedule XVI or as notified by the Central Government.
- Same as Section 11(5) of ITA and Rule 17C

Specified violations leading to cancellation of registration

- Clause 351 of ITB grants powers to PCIT / CIT to initiate inquiries, call for relevant documents and if necessary to cancel the registration if the violation is determined.
- The provisions are almost the same as laid down in sections 12AB(4) and 12AB(5) of the ITA.

Other violations that attract levy of tax

- Clause 353 of the ITB applies to registered NPOs that fail to comply with certain specific statutory obligations such as
 - Maintenance of books (Clause 347)
 - Filing of ITR (Clause 349)
 - Getting accounts audited (Clause 348)
 - Engaging in commercial activities in violation of clause 346
 - Providing undue benefits to related persons
- If these conditions are violated, income is computed by reducing revenue expenses therefrom subject to certain disallowance. This income shall be taxable as regular income u/c 334 of the ITB.
- Provisions are similar to sections 13(1) & 13(11) of the ITA.

Tax on accreted income (Exit Tax)

- Clause 352 of the ITB provides for levy of tax on accreted income at maximum marginal rate. This is a very elaborate clause and hence not taken for today's discussion.
- This more or less same as Sections 115TD, 115TE & 115TF of ITA.

Anonymous donations

Clause 2(49)(c) of the ITB deals with anonymous donation which is the same as Section 115BBC(3) of the ITA.

Deduction u/c 133 of ITB

- This section is parallel to section 80G(5) and 80G(2)(a)(iv) of the ITA
- Clause 133(1)(b)(iii) provides for deduction on contribution made to an approved NPO.
- Approval procedure is taken care by clause 354 of the ITB, which seems almost the same as laid down u/s 80G of the ITA.

Now let's start learning...

Awaiting a smooth transition...

THANK YOU