

GST for NGOs

CUTS, Delhi. Sep-18

Taxable Supply

- **Goods/ services supplied**
 - **to anyone**
 - **for consideration**
 - **in course of business** as defined under GST

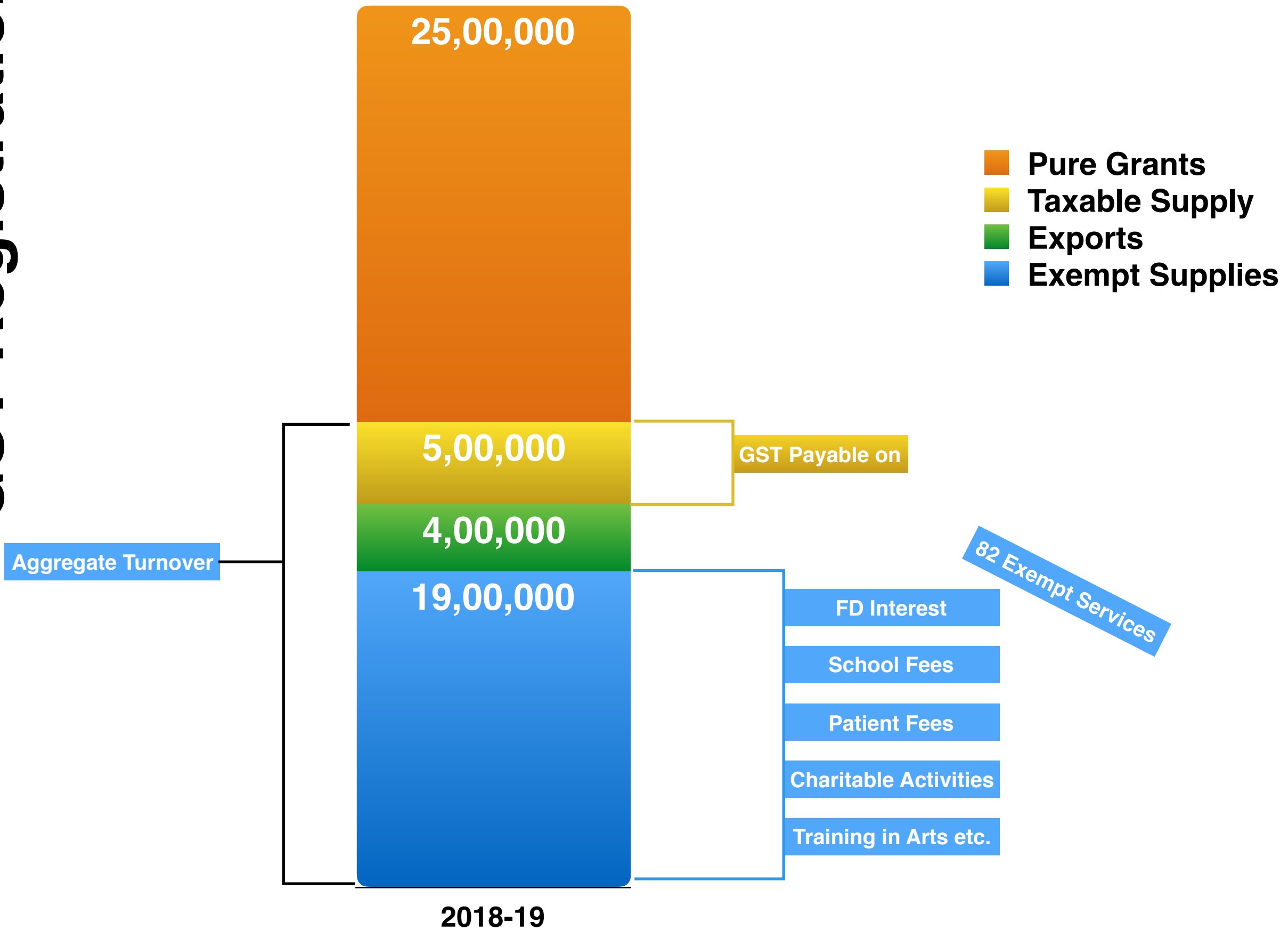
???

- **Donor gives a grant**
- **Is this consideration?**
- **NGO does work in return**
- **Is this supply of goods or services?**
- **Is this taxable supply?**

Registration Required

- **If aggregate turnover is:**
 - **> Rs. 20 lakh in most states**
 - **> Rs. 10 lakh in NE / hill states**
 - **> Rs. 20 Lakh in all states in case of services**
- **If already registered for VAT / Service tax**
- **Using services under compulsory reverse charge**

GST Registration



Pure Grants?

- **No services provided to donor / nominees**

Taxable Grants

- **Benefit / service given to donor**
 - **Beneficiaries are connected to donor**
- **Event named after sponsor**
- **Product / name / logo advertised**
- **Donor's logo on free gifts**
- **Donor gets business advantage**

Totally Exempt

- **Educational services**
- **Clinical Health**
- **Veterinary clinic**
- **Public libraries**
- **Public conveniences**
- **Coaching / training for arts, culture, sports**

Totally Exempt

- **“Charitable activities”**
- **Import of services for “charitable activities”**
- **But what are “charitable activities”?**

Charitable Activities

means activities relating to —

(i) public health by way of. -

(A) Care of counselling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion, spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to, —

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatised persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife

Training Events

- **Nil rate:**
 - **Services provided to Govt. if totally funded by Govt.**
 - **By NSDC/SSC approved training partner for national and vocational skill development course / NSDC scheme**
 - **Skill or vocational training courses certified by NCVT under Deen Dayal Upadhyaya Grameen Kaushalya Yojana to GOI**

Taxable Supplies

- **Property rented for non-residential purpose**
- **Sales, even at subsidised prices**
- **Fees received**
- **Contract work or services**

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150: GST Formalities for NGOs

March '18

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GST was introduced across India in Jul'17. This was a complex exercise. Many minor changes have been made since then, though the basic structure has remained unchanged.

GST has resulted in some confusion among NGOs. Are they covered under GST or not? Are project grants exempt from GST? In some cases, development agencies and corporate donors are asking NGOs to register for GST to avoid reverse charge issues. However, this can have serious consequences for NGOs under GST as well as Income Tax.¹

This issue of AccountAble tries to explain what GST is and how it applies to NGOs.

WHAT IS GST?

GST is a tax on consumption of goods and services. It is a merger of eight taxes³ charged at



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151: GST Exemption for NGOs

Mar'18

IN THIS ISSUE

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Applicability for NGOs pg3

As discussed in AccountAble 150, if an NGO registers for GST, it has to pay tax on all taxable transactions. In this issue, we discuss what kind of transactions and activities are exempt from GST.

EXEMPTION FOR NGOs

In many cases, GST registration is not required even if an NGO's fees, sales, etc., cross Rs. 20 lakh per year.¹ This is discussed in more detail below:

1. Specified Activities

Some activities are totally exempt from GST. These include education in schools and colleges as also approved vocational courses. Medical treatment of

humans and animals is exempt. There is no GST on religious activity either.

2. 'Charitable Activities'

A special exemption is provided in GST for NGOs registered under sec. 12AA. They need not pay any GST on 'charitable activities'. Similarly, they need not pay GST even if they charge fees for training or coaching in arts, culture or sports.

However, there is a catch. 'Charitable Activity' is defined in a very narrow manner under GST.² This means that almost 95% of NGO activities would not be treated as 'charitable' under GST.

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153A: GST for NGOs - Traps & Tips

Jul'18

Most NGOs are not required to register for GST. Some have to register for GST because of their activities. However, sometimes NGOs register for GST by mistake. This means lots of paperwork, formalities, as well as paying GST when it is not really required. In some cases, the NGO may lose its income tax exemption as well.

The concept of GST has been discussed in AccountAble 150. Applicability of GST to an NGO has also been discussed in AccountAble 151. In this issue of AccountAble, we discuss more of examples how an NGO may end up registering for GST. We also discuss ways in which an NGO can avoid this, without causing loss of revenue for the government.

1. Sales / Services Exceed Limit of Rs. 10 / 20 lakh

Trap: If your aggregate turnover crosses Rs. 20 lakh in a financial year (Apr-Mar), then you must register

for GST. The limit is Rs. 10 lakh for hill states and North East states. If you have semi-independent branches using the same PAN, such receipts for all branches should be added for calculating aggregate turnover. Aggregate turnover includes sales, fees, exports, including revenue from items exempt from GST. It also includes any donations, grants, or recoveries which are deemed as sales. For more on this, see '*AccountAble 150: GST Registration for NGOs*'.

Tip: Make sure your aggregate turnover remains below the limit. If this is not feasible, transfer all business activities to a separate for-profit entity.

2. Voluntary Registration

Trap: A donor agency or company may ask you to register for GST before they give you any funds. They may also agree to pay GST on money they give you.

If you follow their advice and register, you will be

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Income Tax

CUTS, Delhi. Sep-18

Tax Exemption for NGOs

12A Registration

File 10A again if main objects change during year

Charitable Purpose

In line with Sec. 2(15);
Business Receipts < 20%

File ITR 7 online

With form 10B; Also 9A or 10 by due date

85% Utilisation

Use up 85% of receipts;
Form 9A/10 for shortfall

Investments

In approved modes; no equity shares, etc.

Arm's Length

Fair price transactions with key persons



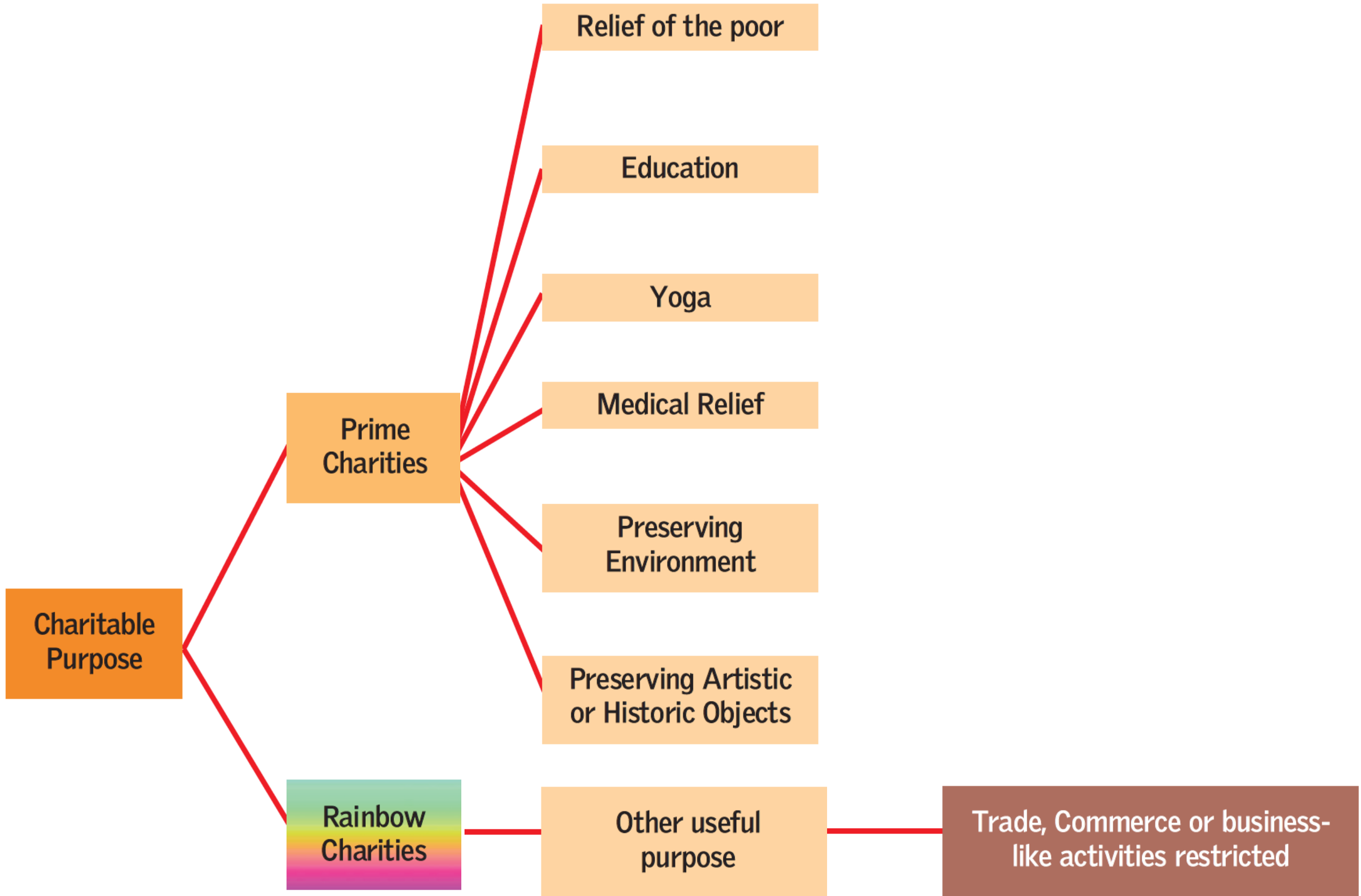
I. 12A

Registration

12AA Registration

- **Essential for exemption**
- **File within one year; or,**
- **If annual receipts > Rs. 2.5 lakh**
- **Lapses if modification in main objects**
- **Apply online within 30 days for revalidation**

2. Charitable Purpose



The Limit

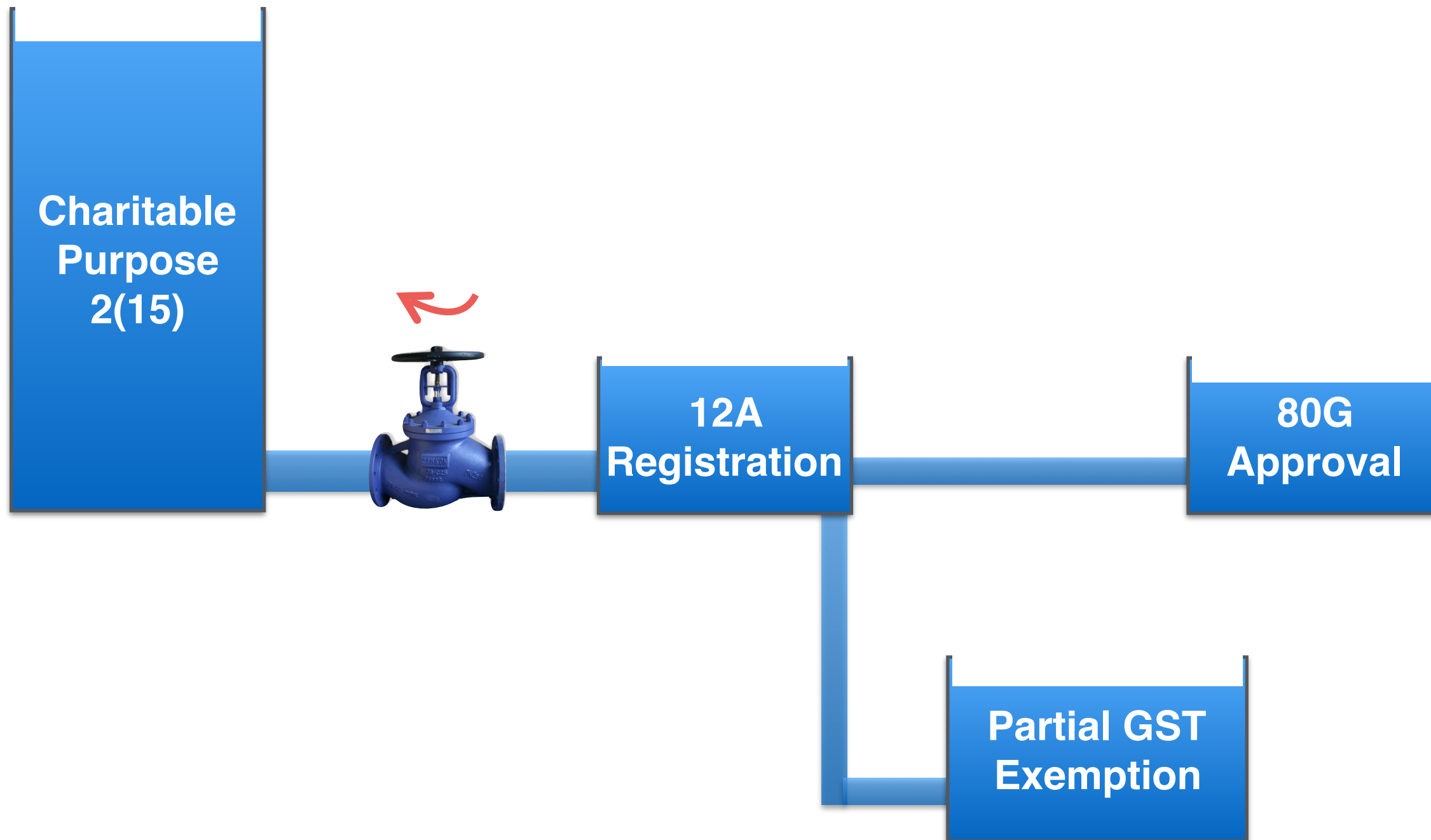
- **Rs. 25 lakh p.a. upto FY 14-15**
- **20% of gross annual receipts from FY 15-16**
- **Applicable only to rainbow activities**

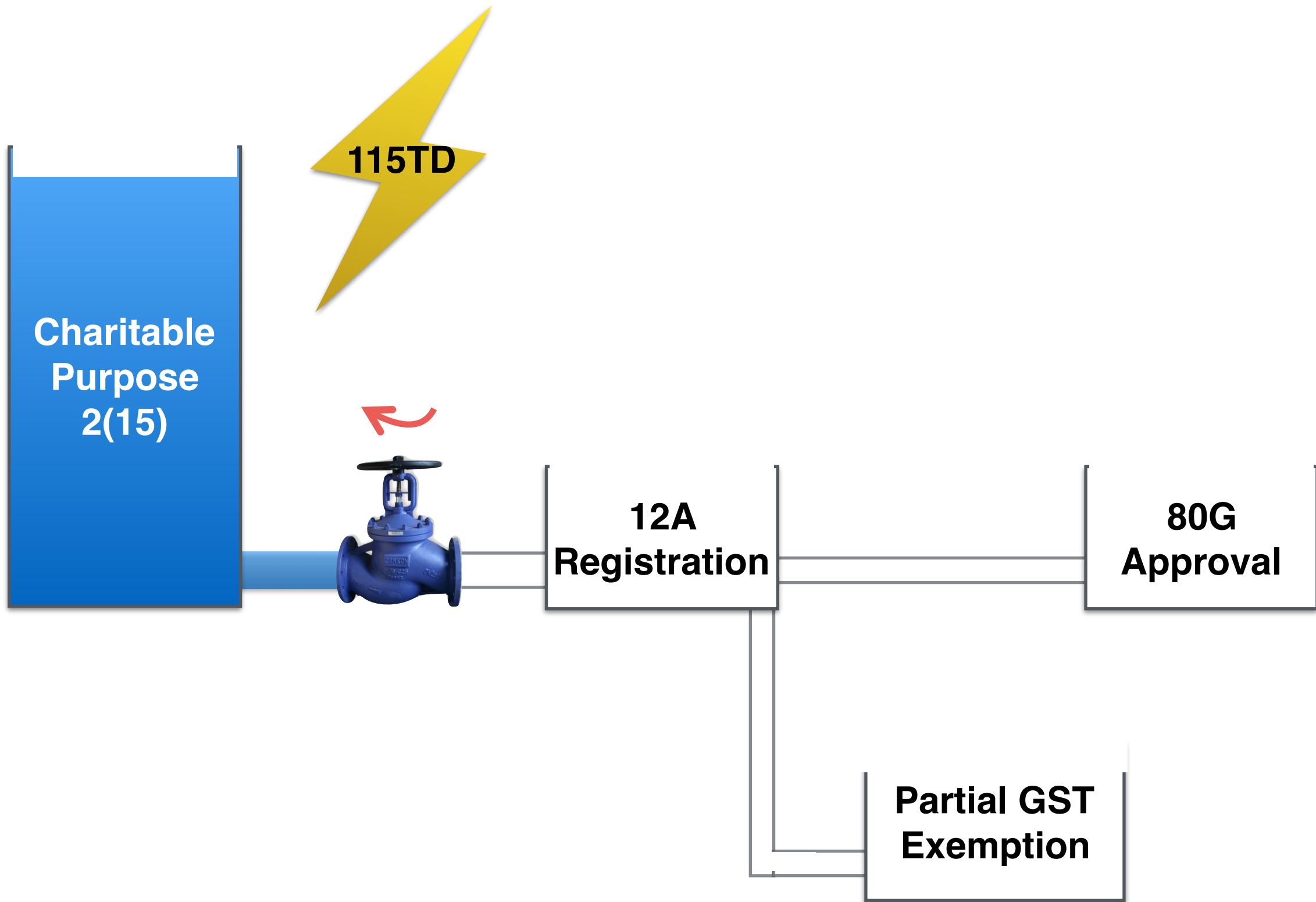
Basic Conditions

- **Incidental to charitable purpose**
- **Separate Accounts**
 - **Separate P&L Account**
- **44AB Audit, if turnover >50L fees/100L Sales**

‘Business-like activity’

OTHER DETAILS	A	i	Where, in any of the projects/institutions run by you, one of the charitable purposes is advancement of any other object of general public utility then,-		
		a	i	whether there is any activity in the nature of trade, commerce or business referred to in proviso to section 2(15)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
			ii	If yes, then percentage of receipt from such activity vis-à-vis total receipts	%
		b	i	whether there is any activity of rendering any service in relation to any trade, commerce or business for any consideration as referred to in proviso to section 2(15)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
			ii	If yes, then percentage of receipt from such activity vis-à-vis total receipts	%
		ii	If ‘a’ or ‘b’ is YES, the aggregate annual receipts from such activities in respect of that institution		
			Sl.	Name of the project/Institution	Amount of aggregate annual receipts from such activities
			a		
			b		





Sec. 115TD

Loss of Exemption



1 Default

Exemption conditions
not met



2 Merger

Merged with a non-
exempt organisation



3 Dissolution

Assets gifted to non-
exempt organisation

Tax on Net Assets

- **Estimate current market value of assets**
- **Deduct outside liabilities**
- **Pay tax on net difference (accreted income)**
 - **Tax at ~35%**

3. 85% Utilisation

Corpus Donations

- **Not included in total income**
- **Must be proved by donor letter**

Computing Taxable Income

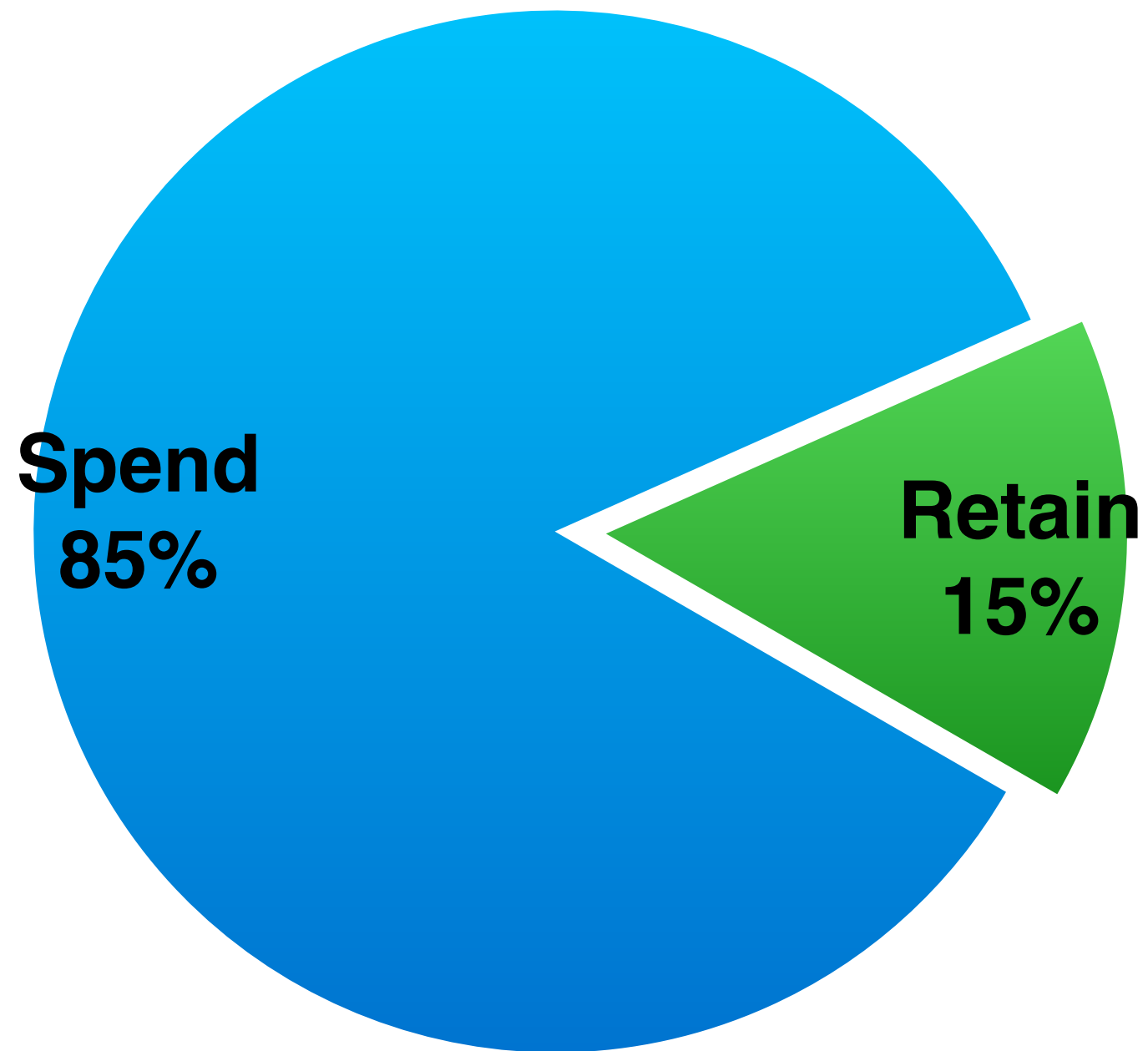
Total Income during Year	20,00,000
Expenditure as per I&E Account	10,00,000
Add: Purchase of Assets	2,00,000
Less: Depreciation charged in I&E	1,00,000
Application of Income	11,00,000
Shortfall in required application (85%)	6,00,000

Carry Forward

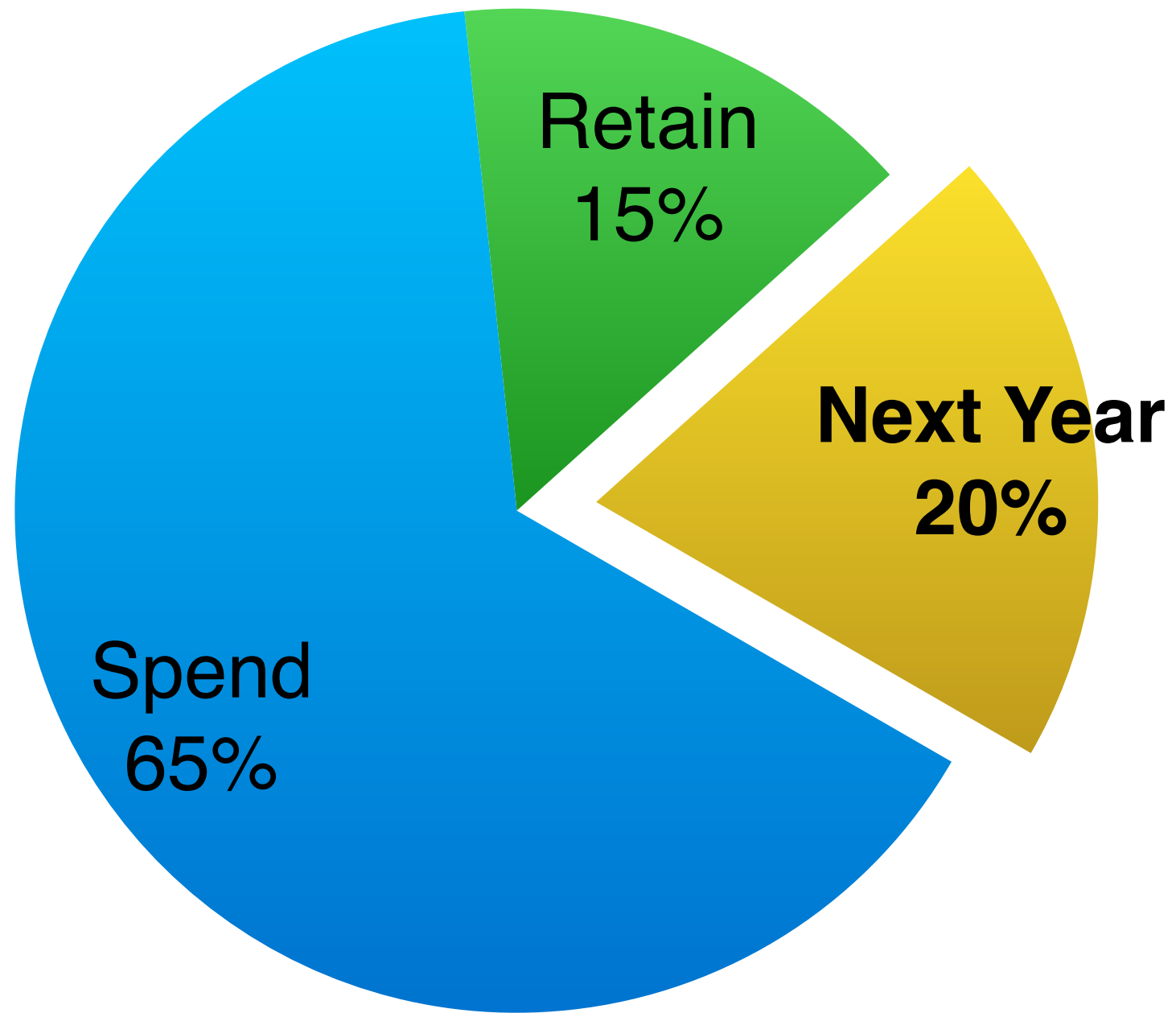
Carry Forward

- **Application online for carry-forward in e-Form 9A**
- **For 5 year accumulation in e-Form 10**
- **File online at [https://
incometaxindiaefiling.gov.in](https://incometaxindiaefiling.gov.in)**
- **Must be filed by due date for filing ITR 7 (30-Sep)**

Minimum Spending



Carry Forward



Form 9A

FORM NO. 9A

[See rule 17(1)]

Application for exercise of option under clause (2) of the *Explanation* to sub-section (1) of section 11 of the Income - tax Act, 1961.

To
The Assessing Officer,

I, on behalf of [*name of the trust/institution/association*].....
Permanent Account Number (PAN) do hereby wish to exercise the option referred to in clause (2) of the *Explanation* to sub-section (1) of section 11 of the Income-tax Act, 1961 for an amount of Rs.....(detailed in A below) to be deemed to be the income applied for charitable or religious purposes during the previous year 20..- 20.. for the reasons mentioned in B below.

A. The details of income in this regard are:

- (i) Amount of income derived from property held under trust / held under trust in part, during the above mentioned previous year: Rs.....;
- (ii) Amount of income [out of (i)] actually applied to charitable or religious purposes in India: Rs
- (iii) Amount of income referred to in (ii) that falls short of 85% of the income referred to in (i) : Rs.....;
- (iv) The amount of income in respect of which the option is being exercised: Rs.....

Form 10 for Accumulation

I, on behalf of..... [*name of the trust/institution/association*] *Permanent Account Number* hereby bring to your notice that it has been decided by a resolution passed by the trustees/governing body, by whatever name called, on that, out of the income of the trust/institution/association for the previous year, relevant to the assessment year 20....-20...., an amount of Rs..... which is per cent of the income of the trust/institution/association for the said previous year, shall be accumulated or set apart for carrying out the purposes of the trust/association/institution. The details of the amount, the purpose and period of the proposed accumulation or setting apart is as under:-

<i>Sr. No.</i>	<i>Purpose for which amount is being accumulated or set apart</i>	<i>Amount</i>	<i>Period of accumulation/ setting apart ending on</i>
1			
2			
3			

2. The amount so 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 Income-tax Act, 1961.

4. Key Person Transactions

Key Persons

- **Author or founder**
- **Person making contribution > 50,000**
- **If any of above is a HUF or its members**
- **Trustee / manager**
- **Relative as per Sec. 13**
- **Person having substantial interest (20%)**

Meaning

- **Income / property lent without security or int.**
- **Permitting use of FA without compensation**
- **Unreasonable salary or allowances**
- **Services provided without charge**
- **Diversion of income**

Outside India

- **Application within India only**
- **Activities/ events / payments outside India**
 - **Prior CBDT permission needed**
- **If permission not taken,**
 - **Pay tax on income spent outside India**
 - **Expenditure disallowed**

5. Specified Investments

Investment Grid (illustrative)

Investment	Income Tax	FCRA	BPT Act
Equity Shares	Not permitted	Not permitted	Not permitted
Growth Mutual Funds	Permitted	Not permitted	Named Funds only
Gilt-edged	Permitted	Permitted	Public Securities only
Bank Fixed Deposits	Permitted	Permitted	Permitted

6. Filing ITR 7 Online

Due Dates

	Due Date	Delayed Filing up to	Penalty (Rs.)
ITR 7	30-Sep	31-Mar	100 / day delay
Form 10B	30-Sep	31-Mar	-
Form 9A	30-Sep	Not Allowed	-
Form 10	30-Sep	Not Allowed	-

PAN for All

- **PAN must for...**
 - **Trustees**
 - **office bearers**
 - **CEO**
 - **Principal Officer**
 - **Directors**
- **Effective 1-Apr-18**
- **Sec. 139A**



Basis of Accounting / Reporting

- **Mercantile or Cash?**
- **Advisable to use cash basis for computation of Income**
- **All information in Receipts & Payments Account**
- **Mercantile or cash - only for business income**

Accounting Basis for Business Income

Schedule OA General

		Do you have any income under the head business and profession? <input type="checkbox"/> Yes <input type="checkbox"/> No (if "yes" please enter foll	
1	Nature of Business or profession (refer to the instructions)		1
2	Number of branches	<input type="text"/>	2
3	Method of accounting employed in the previous year (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> mercantile <input type="checkbox"/> cash		3
4	Is there any change in method of accounting (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes		4
5	Effect on the profit because of deviation, if any, in the method of accounting employed in the previous year from accounting standards prescribed under section 145A		5
6	Method of valuation of closing stock employed in the previous year		6
	a	Raw Material (if at cost or market rates whichever is less write 1, if at cost write 2, if at market rate write 3)	<input type="checkbox"/>
	b	Finished goods (if at cost or market rates whichever is less write 1, if at cost write 2, if at market rate write 3)	<input type="checkbox"/>
	c	Is there any change in stock valuation method (Tick) <input checked="" type="checkbox"/> <input type="checkbox"/> Yes <input type="checkbox"/> No	
	d	Effect on the profit or loss because of deviation, if any, from the method of valuation prescribed under section 145A	6d

Donations and Grants

- **Must report under Schedule VC only**
- **No deduction for utilisation if reported under ‘Income from Other Sources’**

Voluntary Contributions

Schedule- VC Voluntary Contributions (to be mandatorily filled in by all persons filing ITR-7)

A	Local			
	i	Corpus fund donation	Ai	
	ii	Other than corpus fund donation	Aii	
		(a) Grants Received from Government		
		(b) Grants Received from Companies under Corporate Social Responsibility		
		(c) Other Donations		
		(d) Total	Aiid	
	iii	Voluntary contribution local (Ai + Aiid)	Aiii	
B	Foreign contribution			
	i	Corpus fund donation	Bi	
	ii	Other than corpus fund donation	Bii	
	iii	Foreign contribution (Bi + Bii)	Biii	
C	Total Contributions (Aiii + Biii)		C	
D	Anonymous donations, included in C, chargeable u/s 115BBC			
	i	Aggregate of such anonymous donations received	i	
	ii	5% of total donations received at C or 1,00,000 whichever is higher	ii	
	iii	Anonymous donations chargeable u/s 115BBC @ 30% (i – ii)	iii	

Income from Other Sources

Schedule OS Income from other sources

OTHER SOURCES

1		Income		
	a	Dividends, Gross	1a	
	b	Interest, Gross	1b	
	c	Rental income from machinery, plants, buildings, etc., Gross	1c	
	d	Others, Gross (<i>excluding income from owning race horses</i>) <i>Mention the source</i>		
	i	Income from winnings from lotteries, crossword puzzles etc.	1di	
	ii	a Cash credits u/s 68		
		b Unexplained investments u/s 69		
		c Unexplained money etc. u/s 69A		
		d Undisclosed investments etc. u/s 69B		
		e Unexplained expenditure etc. u/s 69C		

Cash Payments

- **100% of payment disallowed**
 - **If payment made in cash exceeding >10,000**
- **Effective 1-Apr-18**
- **Sec. 40A(3) / (3A), read with sec. 11, sec. 10(23C)**

80G Deduction

Approval

- **File form 80G**
- **Approval valid for lifetime if granted**
- **Useful if raising funds from public or companies**

Deduction

- **Tax paying donor:**
 - **Deduct 50% of amount donated**
 - **From Income**
 - **Donation $>$ 10% of income not considered**
- **Effective benefit: 2.5-15%**

Cash Donations

- **Restricted to Rs.2,000 each**
- **Deduction not allowed to donor**
 - **u/s 80G**
 - **u/s 80GGA**

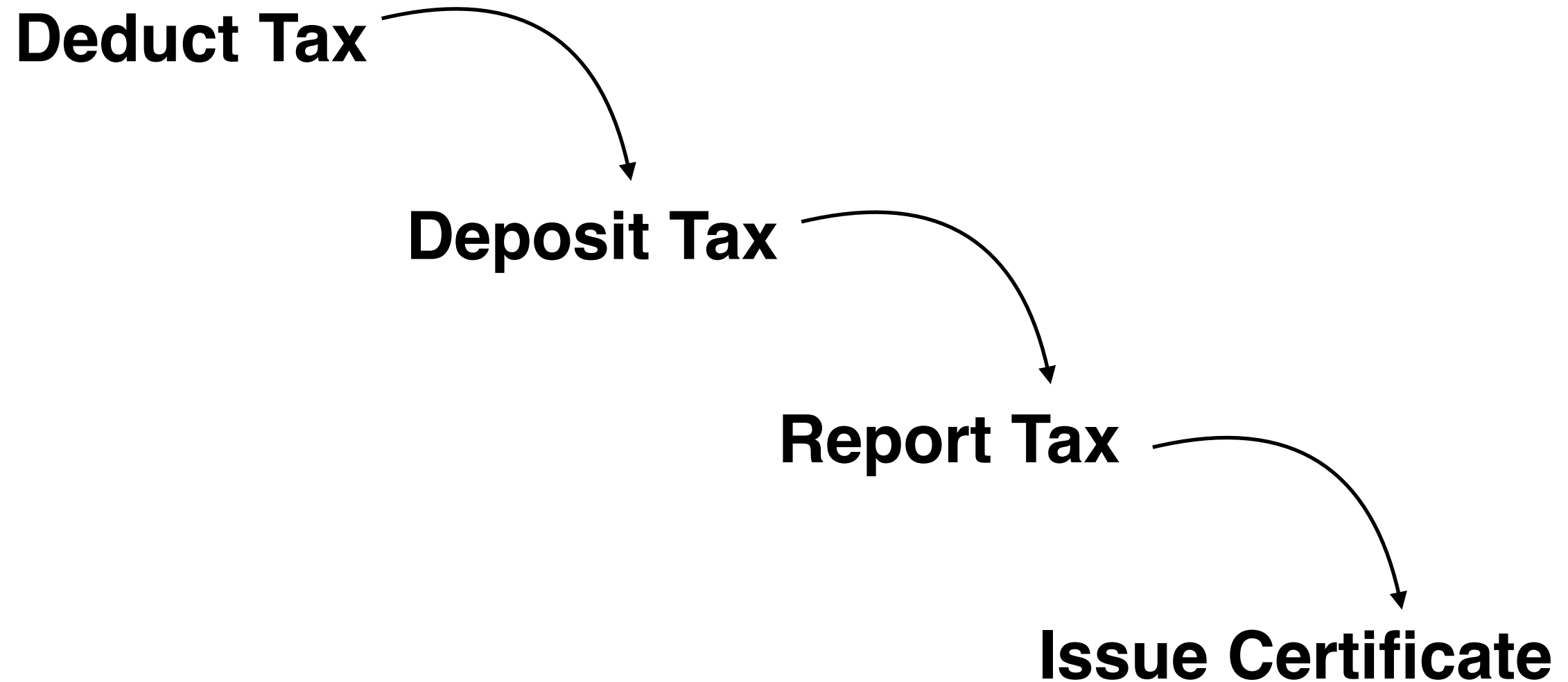
Anonymous Donations

- **Restricted u/s 115BBC**
 - **5% of donations or Rs. 1 lakh, whichever is higher**
- **Tax @ 30% on excess**

TDS

(Withholding Tax)

TDS Cycle



TAN

- **Tax Deduction Account Number (TAN)**
- **Form 49B**
- **Apply when deducting Tax**

Deduct Tax on

Payment	Sec.	Limit	Rate
Salary	192	Basic tax exemption limit	Total tax / 12 months
Contractors	194C	30,000 per contract 100,000 p.a.	Ind. / HUF: 1% Others: 2%
Rent	194I	180,000 p.a.	Plant / Machines: 2% Others: 10%
Prof. Fees	194J	30,000 p.a.	10%
Other sums	195	No threshold	Variable

TDS on Salary

- **Deduct if estimated total annual income > Rs.2.50 lakh**
- **No TDS on non-taxable allowances like conveyance allowance, rent allowance, medical allowance**
- **No TDS on deductible investments under sections like 80C, 80CC, 80D, 80DD, 80DDB, 80E, 80GG and 80U**
- **Ignore claim for donations u/s 80G / 80GGA**

Timing for Deduction

- **Salary**
 - **When paid**
- **Other payments**
 - **When credited to ledger account**

Interest & Penalty

- **1% interest per month for late deduction**
- **1.5% interest per month for late deposit**
- **Penalty = TDS not deducted**

Deposit

- **Deposit tax by 7th of next month**
 - **30th April for March deductions (incl. provisions)**
- **File TDS return each quarter**
- **Automatic penalty for non-compliance**

Returns

TDS on	Return in	Frequency	Due
Salary	24Q	Quarterly	One month from EOQ
Others	26Q	Quarterly	One month from EOQ
Non-residents	27Q	Quarterly	One month from EOQ

Returns for March Quarter - file by 31-May

TDS Certificates

TDS on	Certificate in	Frequency	Due
Salary	Form 16	Annual	15-June
Others	Form 16A	Quarterly	Within 15 days of filing return

Form 16A for March Quarter - issue by 15-Jun

30% Disallowance

- **30% of payment disallowed**
 - **If no tax deducted where required**
 - **If lower tax deducted**
- **Effective 1-Apr-18**
- **Sec. 40(a)(ia), read with sec. 11, sec. 10(23C)**

Acknowledgement

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Doubts?

Write to us at

query@developaid.org

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Regd. Office: 57-B, Pocket C, Siddhartha Extension, New Delhi - 110014; Ph.: +91-11-26345941
CIN: U74999DL2016NPL309078