BIHAR STATE AIDS CONTROL SOCIETY



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1.0 THE NEED OF CBO APPROACH IN TARGETTED INTERVENTION:

In National AIDS Control Program (NACP II) a remarkable scaling up of HIV prevention efforts has been experienced all over the country. Over the period it has been realized that to work on sensitive issue like HIV/AIDS community participation is the backbone for the success and long term effectiveness of the program. In TI projects the approach of community participation has been incorporated from day one of its design in form of peer education approach.

Community Based organization (CBO) means the organization which is of the community, by the community and for the community. In other words the community members are not termed as beneficiaries but the owner of the services created under the program and manages the resources to meet as far as possible needs of the community.

In HIV/AIDS intervention and specifically in targeted intervention projects the focus of the interventions is with the community which is already marginalized both socially and economically. Due to these only they are more vulnerable to HIV/AIDS contraction. Thus apart from HIV/AIDS several other issues needs to be addressed while working with the sex workers, men having sex with men and Injectable drug users.

Based on the evidences from all over the country it has been envisaged that in NACP III community based approach for prevention of HIV/AIDS is on high priority as it is sustainable and has potential provided they are given proper capacity building inputs on the technical aspects to make the HIV program community driven.

Thus CBO formation is one of the key task for the NGO partners implementing TI project. NGOs will have to assume the duty of capacity building of the community members in such a way so that they are empowered to manage the HIV/AIDS prevention program.

The first step toward the community based approach is to create a legal identity of the group of community members in suitable form i.e. charitable organization, society, and cooperative or not for Profit Company. This guide is prepared to give an overview of the legal aspect of formation of CBO along the basic concepts related to community based approach and CBO formation.

It mainly provides information on legal aspect by keeping in view the state specific and central Acts under which CBO can be registered. In India we have different kind of act for registration of public charitable trust and co operatives but for the societies we have The Society Act, 1860 and for not for profit companies we have Companies Act, 1956 which are central Acts. This guide provides information on all above four main acts and the procedures along with the formats for ready use.

However it is advisable to consult the legal persons in respective state where we want to register a CBO.

2.0 WHAT IS A COMMUNITY BASED ORGANISATION (CBO)

a) What is a Community?

There are several definitions for the term "community" in literature but the ones relevant to us are as follows:

- 1. As per World Health Organization (WHO), a community can be defined as "a specific group of people, often living in a defined geographical area, who share a common culture, values and norms, are arranged in a social structure according to relationships which the community has developed over a period of time."
- 2. The Webster's New World dictionary defines a community as:
 - All the people living in a particular district, city, etc.
 - A group of people living together as a smaller social unit within a larger one, and having common interests and work
 - A group of nations loosely or closely associated because of common traditions or for political or economic advantage.
 - Society in general, the public
 - Ownership or participation in common;
 - Similarity or likeness of norms

Community is a place of belonging.

Members of a community gain their personal and social identity by sharing common beliefs, values and norms, which have been developed by the community in the past and may be modified in the future. They exhibit some awareness of their identity as a group, and share common needs and a commitment to meeting them.

Communities can be geographical entities, such as urban neighborhoods or villages, or groups with common interests, such as water user associations, parent-teacher associations, members of a micro credit society, or women's groups, Sex workers or Men having sex with Men etc.

b. What is not a community?

Merely a group of people getting together or with likeness does not form a community. Mobs or group with no common interest and values even with same geographical locations or sharing same occupation may not be considered as a community. Similarly people living in one area do not necessarily comprise a community.

School children for example cannot be considered a community irrespective of many similarities such as age, clothing, living style etc. Similarly persons involved in similar occupation like trading do not form a community until they are united formally and exhibit similar behavior for a long period.

The group that is formed for a temporary period such as relief agencies coming together for coordination and linkages in the aftermath of disasters is not a community irrespective of the common mission.

c) What is a Community Based Organization (CBO)?

Community Based Organization is the lowest level of an organization wherein; mostly people of the neighborhood and small communities unite to form an organization that is solely managed by them.

Community Based Organization means a private profit or non- profit organization that is representative of a community or a significant segment of a community and that provides the services to the community members in a non profit manner.

Since the CBO has to address the various needs of the community members and sustain itself to deal with unresolved issues of the community, both profit and non-profit approaches may be needed while forming a CBO. Profit means to generate surplus after deduction of the expenses made over a particular activity, project or program. The profit may be in term of cash or kind or both. CBO generally formed with little resources; strategically resource generation for its sustenance is essential. Suppose a CBO who is engaged with the income generation program like traditional embroidery based garment production and its marketing obviously they are going to generate the profit provided the activities are implemented in cost effective manner and have market demand. The profit generated from such activity however cannot be directly distributed among the members but it may be utilized to strengthen the CBO so that it is able to engage more number of people in such income generation program. Thus CBO itself may generate profit from its activities but because the profit is not utilized by the individuals for own benefit it can be considered as non-profit organization.

Individuals belonging to a community can form a CBO. Thus sex workers or vegetable vendors of particular area may get united and form a CBO. CBO can also be formed by the organization working with a community. For example if an organization working with the fishermen community may also form a CBO by uniting the people engaged in fishing work in some particular area. It is essential that the CBO be entirely governed and managed by the community members themselves and has a prime objective of serving the community members from which the CBO is formed. One step further the more than one organization involved in the same kind of community based development programs may also form a CBO having representatives from different regions. However here one needs to make sure that the characteristic of communities are absolutely same and the governance entirely is in the hands of the members. Few organizations engaged in HIV/AIDS prevention and control may think of forming a state- wide or nation-wide CBO of persons living with HIV/AIDS.

The term CBO includes various forms like neighborhood groups or organization, community action agency, community Development Corporation, union-related organization, employer-related organization, faith-based organization etc.

CBO should have legal status. This is essential because it gets its resources mainly from the society and its members. Formal financial transactions will mean greater financial accountability to the society through government legislations. When an informal group having all characteristics of community is legalized through a government act either as trust, society or company it will take is called a CBO.

Frequently Asked Questions

1. Can you call a movement – CBO?

Yes, both the cases involve community based action and mobilization of the community.

2. Can we call the movement led by Mahatma Gandhi as community based action?

Yes, this is a community-based action. Similarly in Gujarat and many other states a religious movement led by Shri Pandurang Shastriji known as 'SWADHYAY' where in thousands of people are engaged in social development activities along with religious activities.

3. What will be the distinct difference between a CBO and a Movement?

In both the cases the community is at the center and it is entirely governed by the members. The only difference being that one requires either a Mahatma Gandhi or Shri Pandurang Shastriji to do some charismatic community mobilization for a cause. But in case of a CBO, there is a need to develop the leaders from within the community. An outsider cannot lead it. Another difference between CBO and a movement is that the resources brought into a movement, may be donated by a few individuals but in case of a CBO, equal resource contribution is the key characteristic.

Thus CBO is a structured group whose members have united to advance an interest or achieve some social purpose in the target community.

d Why do we need a CBO?

A Community based organization is a new phenomenon in development sector and an outcome of a growing concern for the last few years around the world. There was need to make investment in development work more effective, adequate, reliable and accessible for the communities that were the target group. This concept was the result of in-depth understanding and researches in this area. Another perspective was to look at the other side of the coin that is the development sector, which was changing the nature of the communities. Now, more and more community groups are empowered and are coming forward to take the responsibility of their own community. This may be due to the development inputs invested by the several charitable institutions working in their areas.

Life is based on experiential learning and only the community can understand its issues, concerns, and challenges and evolve solutions to address them effectively. Communities are the best managers of their resources are the learning all over world.

All development programs are finite in terms of time. It may happen that the program may stop one day but that would be due to a paucity of resources against increasing demands. Thus, distribution of resources is a priority and would result in the time bound developmental initiatives. At the end of every program the communities have to own the program and continue till the community's needs exist. Community ownership can be introduced at an early stage and the programs can be sustained if CBOs take the responsibility of managing development initiatives. Moreover, the contribution to the development program can be met easily if the CBO themselves manage the programs.

After formation, a CBO would typically work in partnership with support organizations and service providers—local governments, the private sector, or NGOs—to develop and

implement projects that meet their immediate priorities in education, health, sanitation, transportation, resource management, economic activities, and other livelihood issues.

If designed well, the CBO can be highly effective in managing natural resources, providing basic infrastructure or ensuring primary social service, or implementing income generation or health related programs.

e) Main purpose of CBOs

The purpose of a community-based organization is to reverse control and accountability from central authorities to community people and develop and implement solutions based on local wisdom.

f) Definition of a successful CBO

A successful CBO would have the following factors:

- An understanding of the community's needs
- Capacity to build on the strengths of existing institutions
- A clear understanding of the changes needed in intermediary implementing agencies to support community action
- A professional decentralized management
- The local needs are tapped

g) Difference between a NGO and CBO

The ultimate goal of a CBO or a NGO is the development of communities, protection of environment, rational use of natural resources etc. Legally there is no difference in terms between the two but in practice some of the differences are seen which may not be applicable to all CBO or NGOs but by and large it can be seen with varying degree in a majority of the organizations fall as follows.

Key differences between CBO and NGO

СВО	NGO		
It comprises the community members	It is generally led by a motive of serving		
themselves.	the community by individuals not		
	necessarily belonging to the same		
	community.		
Fairly new concept.	Age old concept.		
The focus is on meeting immediate needs	Normally addresses the needs of the		
of the community.	society at large.		
It is managed by the community	The trustees or Board of director manage it		
themselves and they hire professionals if	and community involvement is limited		
required.	normally to implementation level.		
Professionalism is the key requirement.	Community participation is the key		
	requirement.		

3.0 LEGAL FORMATION OF CBO

a) Why is legal formation of a CBO necessary?

It is primarily needed to create a separate institutional identity as well as the following:

- To access resources and support from formal structures and systems
- To reduce individual risks
- To facilitate ease of formalized systems
- To provide oversight/monitoring/regulation in a public domain works

b) Laws applicable to a legalized CBO (non-profit) in India

A CBO can be registered under any one of the following acts applicable for registration of charitable and development organizations among the current acts:

- 1. The Bombay Public Trust Act, 1950 or any state specific act for registration of Charitable organizations
- 2. The Societies Act, 1860
- 3. Companies Act, 1956
- 4. Co-operative Society Act.

c) Comparison of salient points of inception, formation, management and reporting requirements under different acts

Following are the minimum requirements for forming a CBO:

	Trust	Society	Not for profit	
			company	
Act applicable	Act applicable Relevant State Trust		Indian Companies Act,	
	Act or Bombay Public	Act, 1860. This is a	1956. This is a Central	
	Trusts Act, 1950 for the	Central Act applicable	act applicable to all	
	state of Maharastra and	to all states.	states.	
	Gujarat. The other states			
	like Rajasthan and			
	Taminadu have their			
	own act.			
	Thus this is a state act.			
Title of founder	Title of founder Trustees		Board of directors/	
members		council/ managing or	managing committee	
		executive committee		
Qualifications	• Minimum 18	• Minimum 18	• Minimum 18	
of founder years or above		years or above	years or above	
members • Should be an		 Should be Indian 	 Should be Indian 	
(age/conduct, Indian		 Mentally sound 	 Mentally sound 	
mental • Mentally sound		• No criminal	• No criminal	
soundness) with no criminal		record	record	
record		 Not be insolvent 	 Not be insolvent 	

	Trust		Society	Not	for	profit
				compa	ny	
ſ	•	Not be insolvent				

Intent	Main intent is to utilize the property of individual for noble and charitable cause however not limited to this.	for the overall development of the members however not limited to this.	Mainly for investing the profit if any for the promoting of its objects but not in form of dividend
Tenure	As per the trust deed either permanent or for a specific time period	As per the Memorandum of Association, normally two to three years but then can be re-elected	Normally permanent in nature unless they willingly resign or are terminated by other majority members.
Formation procedures	Refer Section 7	Refer Section 7	Refer Section 7
Time for formation Formatting	Nearly six to eight weeks The overall cost of	weeks	Nearly eight to twelve weeks The overall cost of
(registration fees & other) costs	registration, including fees of lawyers & Chartered Accountant and Stamp Duty, is likely to be around Rs. 20,000 to 25,000	registration, including	registration, including fees of lawyers & Chartered Accountant and Stamp Duty, is likely to be around Rs. 30,000 to 40,000
Registering authorities	Charity Commissioner. Regional offices.	Registrar of Societies or Charity Commissioner. Regional offices.	There are four Regional Directors, at Mumbai, Calcutta, Chennai and Kanpur.
Registration	As trust	In states like Maharashtra and Gujarat, both as a society and as a trust	As a company u/s 25 of the Indian Companies Act and totally outside the purview of the charity commissioner's department
Regular Submission	Audited statements, change in trustee, investment, property purchase, FCRA related reports	Audited statements, change in Governing body members, investment, property purchase, FCRA related reports	Audited statements, change in Board of directors, FCRA related reports
Main Document	Trust deed	Memorandum of association and rules and regulations	Memorandum and articles of association. and regulations
No. of individuals required to	Minimum 2 trustees. No upper limit.	Minimum 7 managing committee members. No upper limit.	Minimum 2 directors and 2 subscribers. No upper limit.

form the		
organization		

Stamp Duty	Trust deed to be	No stamp paper	No stamp paper
	executed on non-	required for	required for
	judicial stamp paper, the	memorandum of	memorandum and
	value of which should	association and rules	articles of association.
	be 4% of the value of	and regulations.	
	the trust property.		
Renewal	Once registered no need	In few states like Utter	No need to renew if
	to renew.	Pradesh every five years	annual filing is done
		need to be renew and in	regularly.
		West Bengal every year.	
Governance	There is a board of	Societies are governed	The board of directors
and	trustees who govern and	and managed by the	governs companies.
managemen	manage the trust.	members of the	
t		managing committee	
arrangemen			
t			
Mode of	Usually by appointment	Usually elected by	Usually elected by
Succession		members of the general	members of the
on Board of		body	general body
Managemen			
t			

d) How do you decide under which act one should form CBO?

The decision to register under either one or more than one acts may vary due to many factors. However this decision should be taken very carefully. The main factors affecting the decision-making processes regarding the act applicable are;

- Management style
- Reporting requirements
- Jurisdiction and powers of monitoring authorities
- Registration level i.e. state, national or both

1. Different types of trusts

A trust can be of two types – Private or Public, depending on the object of the trust. As per the characteristics and the general objects of a CBO, a public trust is more suitable for a CBO. The private trust is a form of trust in which an individual or group of individuals form a trust to meet the needs of, <u>only</u> pre-defined beneficiaries. The following examples will explain the basic differences.

<u>Example 1:</u> Mr. Akshay is a chairman of a big industrial company who wants to conduct welfare activities for the employees of his company. If he registers the trust,

it will be called a private trust

<u>Example 2</u>: If a member of a family creates a will to manage the property of his/her family members who may not be in the position to manage it due to some reasons, then this property will go to a private trust. This trust would work only for the family members.

Thus, the fundamental difference between the two is that, a private trust is confined to private benefits while a public trust is not confined to private benefits.

2. <u>Different types of Societies</u>

Similarly there are two acts under which the societies can be formed:

- Under the Societies Registration Act, 1860 and
- Under Cooperative Societies Act such as Gujarat Cooperative Societies Act 1961 (it is worthwhile to note that different state may have its own cooperative societies act).

The basic difference in the two acts is that the former one is a national act and the later one is a state specific act.

A few examples of cooperatives include AMUL, Cooperatives in Gujarat, Housing cooperatives found in most of the urban areas and the cooperative banks. The co operative societies are normally floated with the objective of economic gains i.e. profit sharing among the members.

e) Minimum requirements for registering a CBO

Some of the basic differences in title, types of founder members and essence of institutions related aspects have been elaborated in an indicative manner for most widely used form of organization as mentioned above.

i) Public trust:

When one registers a CBO as a public trust, the persons who form the trust are called trustees of the trust. It covers a large number of relationships involving different obligations and it may be said that every one is a trustee who is entrusted the duty to manage and control the property of others, even though the ownership of the property is not transferred to him/her. Settler is one who gives the property for the trust for a charitable cause and the settler may also be one of the trustees.

Tenure of trustees:

Normally there are two types of trustees-

• Permanent trustees /founder trustees:

They are the persons who normally register the trust under any of applicable acts. Trustees can decide the tenure during the inception stage of the trust.

Invited trustees:

Owing to the special needs of the trust, the existing trustees may invite external persons who may not be trustees during the formation stage. Such trustees may be termed as invited trustees. The founder or permanent trustees of the trust/or as per governance rules decide their tenures and powers.

Trust deed

It is the main document of the trust. Trust deed is a document by which the trust is formed and registered and contains all details about the management of the trust.

Winding up

A trust is generally irrevocable and once set up, cannot be wound up. If it becomes defunct due to negligence of the trustees, the charity commissioner can take steps to revive it normally by giving the property of the trust to another similar organization.

ii) Societies:

Founder Members of the society

As per the act, minimum seven qualified members can form a society by paying an initial membership fee. These members may be considered as the founder members of the society. During the first general body meeting a governing body comprising the president, vice president, two joint secretaries, and two honorary treasurers will be elected from among the founder members. This governing body may be re-elected every year.

Membership in Society can be classified as below

- Ordinary membership:
 - Any individual or institution may on application in the prescribed form and payment of annual fee or Rs. X (as per society norms) become an ordinary member of the society.
- Associate membership:
 - Any individual or institution may on application in the prescribed form and payment of annual fee or Rs. X (as per society norms) become an ordinary member of the society. The associate member shall/shall not have voting rights and shall/shall not be elected as members of the managing committee.
- Fellow:

The managing committee may in its absolute discretion admit any individual as fellow of the society, in recognition of any service or contribution made by him to the society in the past as an ordinary member. The members of the managing committee may decide the terms and conditions. The associate member shall/ shall not have voting rights in general body meeting and/or to be entitled to become a member of the managing committee.

• Patron:

Any individual of an institution in the country may be recognized by the managing committee in its absolute discretion as a patron of the society for his/ her/ its

contribution to the working or funds of the society, for such duration may be decided by the managing committee from time to time.

Memorandum of association and Rules and regulation of Society:

Unlike the trust, in Societies there are two main documents- Memorandum of Association and Rules and Regulation of Society. The former one is the document expressing the interest to register a society with detailing on members, aims and objects, while the later is the document, which actually governs and manages the society.

Winding up

A society can be wound up if the objectives for which it had been formed have been fully achieved. The surplus assets if any may be given to similar charitable causes.

iii) Company:

In this case, the founding member of company who applies for the registration is termed a director of the company and the board of directors governs the company. Together they form the managing committee.

Membership

There are five categories of membership -

• Founder members:

The subscribers to the memorandum and article of association of the company shall be founder members. They shall continue to be members till the first annual general meeting.

Honorary members:

Any distinguished visitor to the local area or any other person of distinction or who has taken or is about to take part in the activities of the company and who is otherwise eligible for admission to membership may be made an honorary member by managing committee for such period as the committee thinks fit.

• Institutional Members:

Any company, firm, association, trust, or body corporate or any other type of organization can become a member under this category by making an application to

the company in the prescribed form along with entrance fee or an amount (as decided by managing committee) and inclusion will be at the discretion of the managing committee. Also the institution may nominate individuals as institutional members on approval by the committee. However one cannot be a member for more than five times during the entire period of membership. The institutional membership and nominee will be governed by the rules.

Patron members

Any person or institute desirous of becoming patron member may apply to the company in the prescribed form with a fee of a prescribed amount and on the approval by managing committee one may by admitted as patron member of the company.

Associate members

It will be within the competence of the managing committee to admit associate members on the payment of the entrance fees of a prescribed amount for such period and on such terms and conditions as the committee may prescribe from time to time.

• Number of membership

The membership in any company is to be decided by the managing committee from time to time. The members paying membership fee are eligible for voting.

Memorandum and Article of Association

It is similar to the Society; a company has memorandum and article of association for its governance and management.

Tenure of the Governing body

Normally every two years the election for the governing body should be conducted and a new body should be elected for the management of the company.

Winding up

A company can be wound up if the objectives for which it had been formed have been fully achieved. The surplus assets if any may be given to similar charitable causes.

Minimum number of trustees/ members/directors

As per the Trust Act, there should be at least two qualified trustees (in terms of; nationality, age, mental soundness and criminal intent) to set up and manage the trust. There is no maximum limit mentioned in the Act and the trustees can decide this number themselves.

As per the Society Act, there should be at least seven members to form a society and in this case also there is no restriction on the upper limit for the number of founder members. All the members should have the minimum qualification similar to that of the trust.

To form a company one may need at least two persons who will be called directors of the company.

f) Retirement of Trustee/ members/directors:

A permanent trustee can retire from the trust before the period specified in the trust deed willingly. However, in such a case, a notice period should be given as specified, in the trust deed, which can be a month or so.

In the case of a society or a company, the tenure of the members is defined in Rules and Regulation, which should be followed. However, in general other than the voluntary

retirement unless and until a member defies the rules, regulation and misconducts his or herself, one may continue as member in the management committee. The management committee is elected every year or so as per the rules and regulation.

While in case of companies also unless any act conducted against that specified in the memorandum and article of association one is eligible for the tenure specified. The tenure of the governing body member or board of directors has to be clearly outlined in the document submitted for the registration. The membership tenure also depends on the type of membership as defined in the article of association.

g) New appointment of trustees/member/directors

New appointment of trustees may be required normally in following cases:

- Voluntary retirement of a trustees/member/directors
- Death of trustees/member/directors
- Removal or dismissal of trustees/member/directors
- Need of trust

Other than this new appointment of any of the person who manages the trust, society or company is to be defined in the respective documents of the organization.

h) Ownership of the trust/society/company:

The ownership in the case of trust is not of the trustee. The trustees are responsible for the management of the trust including all property and other assets but they cannot own the property of the trust. Even the property created during the tenure of the trustees, cannot be claimed by them legally.

The Society, on the other hand, is created by the members and the operational and management responsibility lies with them. But, they are also not the owners of the society's assets. It remains with the members of the society and finally in the hand of Registrar of Societies or the Charity commissioner as the case may.

Company, being a private entity, the ownership of the company lies with the board of directors. Unlike the trust or societies, when a charitable organization is registered as a private company with limited liability, ownership lies with the board of directors.

Co-operative Society

One can also register a CBO as a co-operative society under the Cooperative Society Act, which is state specific in nature. The main difference between societies registered under the Societies Act and under Cooperative Act lies in the objective that it is planned to function. The Co-operative society is best suited for the economic development as the main objective of the society where, a group of members may either directly or indirectly be involved in income generation or related activities. The typical examples of cooperative societies are the Housing Societies, Agriculture Products Societies, and Milk Societies etc. The co-operative banks are also registered under this act.

The co-operative society can be formed either by ten members of different family background or five societies. When the object is in the line of co-operative principles one can opt for registering it under co-operative society.

Co-operative principles:

- The membership of a co-operative society shall be voluntary and shall be open to all persons who are eligible for such membership without any social, political and religious discrimination
- All members of a cooperative society other than a nominal members shall have equal right of voting in accordance with principle of 'one member, one vote'
- Surplus or savings arising out of the operation of a co operative society shall belong to the co-operative society on the whole and no individual member shall have a claim to such surplus or saving
- The surplus of the society shall be utilized for all or any of the following purposes;
 - o To provide for development of business of the co operative society
 - To provide services for common enjoyment of membership of the cooperative society
 - o For distribution among the members of the co-operative society in proportion to the transaction of the members with the co-operative society
- A co-operative society shall arrange for the education of its members, office bearers and employees and of people in the principles and practices of co-operation
- A co-operative society shall, in every practical way co-operate actively with its members and other societies
- The director of the board of the co-operative society shall be accountable to the general body of other co operative societies at local, state or national level
- The share capital of a co-operative society shall receive a strictly limited rate of interest in the form of dividend
- The affairs of a co-operative society shall be administered in accordance with the will of its members, expressed through unanimous vote or majority decision at a meeting of the body of members of co-operative society.

4.0 POWERS AND DUTIES OF TRUSTEES

Following are the main powers and duties of the trustees as per the Section 35, 36, 36A, & 36 B of the Bombay Public Trust Act, 1950 and Society Registration Act 1860. The trustees are bound to follow the rules set for the operation of the trust as per the Act for the following aspects.

As per Bombay Public Trust Act, 1951

a. Investment of public trust money:

A public trust is a permanent settlement. It is the primary duty of the trustee to preserve the trust property or the corpus, the income of which is to be used for all times. The corpus and the money of the trust should therefore, be invested in the safest possible manner. The object of this clause is to provide that where a trust property consists of money and cannot be applied or at an early date to the purpose of the public trust, the trustee shall be bound to invest the money in approved securities.

The list of approved securities is:

- Cash deposit with any Scheduled bank
- Postal Savings
- Co–operative banks approved by the state government
- Public securities as defined in Sec. 2 (12),
- First mortgage, provided the value of the property exceeds by one half the mortgage money and the property is not leased for a term of a year and
- Any other manner by general or special order permitted by the charity commissioner.

Investment to purchase immovable property or utilization for the object or furtherance

The trustee shall be bound to invest money in approved securities, notwithstanding any direction contained in the instrument of the trust. The money invested in the purchase of a house or building, to earn income, is not an investment authorized by this section. Hence permission is necessary for such an investment. The trustee or manager should make an application for sanction under this section.

If the trust money is to be utilized for the object of the trust or in furtherance of the object of the trust, in the purchase of immovable property no permission of the charity commissioner is necessary

b. Alienation of immovable property of public trust:

The Section 36 deals with the alienation of immovable property like land and it permits alienation only with the previous sanction of the charity commissioner. This section does not restrict transfer of movable property. Property that belongs to a trust is protected from alienations by trustees till; a competent officer has examined the necessity of the alienation. Where there is a direction in the instrument of trust authorizing the trustees to alienate the

trust property even then the previous sanction of the charity commissioner is necessary. The alienation of the immovable property of the public trust is a purely secular matter and

according to the constitution the state legislature can provide safeguards and can regulate secular matters. Every application for sanction of alienation shall contain the information as stated in Rule 24 of the Bombay Public Trust Act, 1951.

c. Trustee may not buy / conflict of interest:

Section 52 of the Indian trust act, 1882, prescribes that – no trustees whose duty is to sell trust property and no agent employed by such trustee for the purpose of the sale, may directly or indirectly buy the same or any interest in it on his own account or as agent for a third person.

Same principle also apply to the leasing or letting of trust property, and if the trustees do not take proper steps by consulting a practical valuer, to ascertain the proper rent or a fortiori knowing the proper rent, and they accept a lower rent, they will be liable to make good the difference.

Above mentioned powers and duties and restrictions are from the view point of the Bombay Public Trust Act, 1951 applicable in Gujarat which may vary from state to state.

As per The Societies Registration Act, 1860

a. Section 4. Annual list of managing body to be filed:

Once in a year, on or before the fourteenth day succeeding the day, on which according to the rules of the society, the annual general meeting of the society is held, or if the rules do not provide for annual general meeting, in the month of January, a list shall be filed with the Registrar of the names, addresses, and occupations of the governors council, directors, committee or other governing body then entrusted with the management of the affairs of the society.

4a. Changes in managing body and rules to be filed regularly

According to this section any changes during the year pertaining to the personnel of governors, council, directors, committees or other governing body to whom the management of the affairs of the society is entrusted and also a copy of the rules of the society corrected up-to-date and certified to be a correct copy by not less than three members of the governing body should be sent to the registrar.

A copy of every alteration made in rules of the society, certified to be a correct copy by not less than three members of governing body should also be sent to the registrar within thirty days of making such alterations.

4b. The registrar can ask for information related to the society as mentioned in the rules of society and compliance to such notice is mandatory

b. Section 5: Property of society, how it is to be vested:

The property movable and immovable belonging to a society registered under this act, if not vested in trustees shall be deemed to be vested for the time being, in the governing body of such society, and in all proceedings, civil or criminal may be described as the property of the governing body of such society by their proper title.

c. Section 11:

Any member of the society who shall steal, purloin, or embezzle any money or other property or willfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the criminal prosecution and if convicted, shall be liable to be punished in like manner as any person not a member would be subject and is liable to, in respect of the like offence.

d. Section 11. Penalty

A. Penalty for contravening section 4

If any authorized officer of a society who is required to furnish any information or return under sub section-1 of section 4B:

- Willfully refuses or without lawful excuse neglects to furnish such information or return as may be required under section 4b or
- Willfully furnishes or causes to be furnished any information or returns without knowing it to be false or
- Refuses to answer or willfully gives false answer to any question necessary for obtaining any information required to be furnished under section 4b. Such authorized officer shall on conviction, be punished for each such offence with fine which may extend to two hundred rupees. (In Gujarat, the authorized person shall also be punished with fine not exceeding five hundred rupees each day during the period of breach if it continues after first conviction for such offence)

B. Penalty for improper disclosure of information or return;

If the registrar or any person duly authorized by him, with the collection of any information or returns under this act, willfully discloses any information or contents of any return given or made under this act, other than in the execution of his duties under this act or for the purposes of the prosecution of an offence under this act or the Indian penal code, he shall, on conviction, be punished for such offence with fine which may extend two hundred rupees.

5.0 RESPONSIBILITIES OF TRUSTEES/MANAGING COMMITTEE/ DIRECTORS:

The overall responsibilities of the trustees/managing committee/directors are as follows:

- a. To manage human resources of trust/society/ company i.e. appointing employees with settlement of the terms of their service, remuneration and termination
- b. To look into the overall management of the trust/society/company
- c. To decide about the investment of the funds of the trust/society/company in bank or in the purchase of company shares or securities or other movable and movable and immovable properties
- d. To sell, alter, vary, transpose or otherwise dispose or alienate the trust/society/company properties or any investment representing the same for consideration and to reinvest the same
- e. To pledge or mortgage the trust/society/company properties to raise loans
- f. To look after financial systems like opening bank accounts in the name and on behalf of the trust/society/company and operate the same
- g. To enter into a partnership on behalf of the trust/society/company with any other party or parties
- h. To pay all charges, impositions and other outgoings payable in respect of the trust/society/company properties and also to pay all cost that are incidental to the administration and management of the trust/society/company properties
- i. To file suits on behalf of the trust/society/company and to refer to arbitration all actions, proceedings and disputes affecting the trust/society/company properties and to compromise and compound the suits filed
- j. To accept any gift, donation or contribution in cash or in kind from anyone for the objects of the trust/society/company
- k. To seek legal opinion of lawyers and/or chartered accountants as and when required
- 1. To nominate their representatives for any of the aforesaid purposes

6.0 DUTIES AND LIABILITIES OF TRUSTEES

Civil and criminal liabilities of trustees:

The fulfillment of responsibilities is mandatory for trustees and should be considered as civil and criminal liabilities of trustees. Liability is penalty for failure to perform one's duties. It can lead to fine in monetary terms or cancellation of the trusteeship. The basic difference between civil and criminal liabilities is that since the trust is a special act, any breach of provisions of act is a civil liability. Any offence such as, fraud with trust property or theft or breach of contract made with the person, institution etc. by the trustee is considered as criminal liability and the Indian Penal Code provisions are applicable in such cases.

The following are some of the civil liabilities under Bombay Public Trust Act and various section therein, failure to which may lead to fine under various section of Bombay Public Trust Act and Income tax Act:

Sr. No.	Section	Action	Fine (Rs.)
1	18	Registration of trust in prescribed time	1000/-
2.	18	Not informing about property	200/-
3.	22	Not informing change in object, trustee etc within 90 days	1000/-
4.	22/A & 22/B	Not applying in prescribed time	500/-
5.	29	Not executing the will in prescribed time of the registered trust	1000/-
6.	32	Not maintaining the account in time and not applying for it	1000/-
7.	35	Not investing surplus trust fund in government securities & related action	1000/-
8.	59	Not submitting administrative tax in time	1000/-
9.	63	Not informing the Assessor to be present	500/-

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7.0 HOW A TRUST/ SOCIETY/COMPANY WORK?

Just as there are norms for behavior in a societal group, there are written and formal rules for behavior of a legal entity. This is governed by its base document i.e. deed in case of trust and by laws, memorandum of association & rules and regulation in case of society and memorandum and article of association in case of company. It is mandatory to follow the base documents for every aspect of management of the trust/society/company. Thus, it is essential to carefully design and understand the meaning of each and every aspect of written things in these documents. These documents should mention clearly the procedures to be followed in each and every small matter in the organization.

Meetings, record keeping:

Charitable organizations normally conduct two types of meetings:

a. <u>Meetings of the board of trustees/ members of the managing committee/Board of directors</u>

Such meetings should be conducted with the focus on operational and management related issues. Even the system of quarterly or bi- monthly progress feed back is useful for timely response to the frequently changing situations at the community level. At many trust and society, the trustee or the members of the managing committee form sub- committees of the trustees to gear up the activities of the organization. One may think of forming sub-committees for fund raising, external relationship, human resource management, administration and procurement. Such sub committees are helpful as; i) they can meet and interact more frequently ii) they can concentrate on one assignment so that the responsibilities are shared iii) it increases the feeling of ownership etc.

b. General body meeting, which may be annual or special.

It is not mandatory for the organization registered under the Trust Act to convene general body meetings, as they do not have the membership. Any decision, pertaining to the Trust is taken by the trustees in the board meetings. These meetings should be conducted as frequently as mentioned in the trust deed. It is essential to have at least one meeting of all trustees in a year and having three to four meetings enable better management of the trust. Such meetings should be documented properly. In case of organizations registered under Society Act, apart from the meetings of managing committees or governing body members as mentioned in the rules and regulation of the society, an annual general meeting must be convened once every year. The main purpose of annual meeting could be to receive and adopt the annual report, audit statements of accounts, appoint auditors and hold election for the office members. In all the meetings, the president or vice president should chair the meeting and in his/her absence the members may select one of them as the chairman for the meeting.

In case of a Company also there should be a general body meeting in where maximum members take part and are briefed on the progress, plan for next year and the election of the new board members. It is important to have proper "quorum" which means the fixed number of members that must be present in the meeting for validity of the proceedings of the meeting. Normally, one-third members form the quorum however it should be specified either in the trust deed for the Trust or rules and regulation of the society for the Society.

8.0 FORMATION PROCEDURE

a. Under Trust Act

The Act

Different states in India have different Trusts Acts in force, which govern the trusts in the state. In the absence of a state specific Trusts Act in any particular state or territory the general principles of the Indian Trusts Act 1882 are applied.

Where to apply?

To apply for registration of a CBO as a trust, the application should be submitted under section 18 of the Bombay Public Trusts Act, 1950 to the deputy/assistant charity commissioner having jurisdiction over the region/sub region in where the trust is has to be registered. The details of the region/sub regions are available at every office of the Charity Commissioner.

Procedure for application

The application should be made in the prescribed format as given in *appendix 1*. The application forms are available from the office mentioned above. After providing the details in the form regarding the name of CBO, names of trustees, mode of succession etc., the applicant has to affix a court stamp fee of Rs. 2/- to the form and pay the registration fee in cash which may range from Rs. 3/- to Rs. 25 depending on the value of the trust property.

The duly filled, application should be signed by the applicant in presence of the Regional Officer or Superintendent of the Regional Office of Charity Commissioner or a Notary. The application form should be submitted along with a copy of the trust deed (*Specimen given in Appendix 2*). The trust deed is the main instrument of the trust. The trust deed is the document, which clearly states the aims and objectives, mode of succession or any issue pertaining to management of trust. Trust deed must be executed on non–judicial stamp paper according to the value of the trust property. A good quality paper should be used for making the trust deed. The trust deed should be signed by both the settlers and trustees in the presence of a witness who, may be a relative or friend

For example

If one decides to start a CBO as trust with a token amount of, Rs. 1000/-, the trust deed should be executed on a non-judicial stamp of Rs. 40/-

Other documents:

Apart from the Trust deed, two other essential documents have to be submitted they are the affidavit and the consent letter. (*See appendix 3 & 4 for specimen*). The affidavit must be sworn by the trustee who is making the application before a notary and on non judicial stamp paper of Rs. 10/- The consent letter which, can be prepared on plain paper should be signed by the other trustees other than the person who is applying for the CBO as a trust.

Time:

Processing of the application usually takes about six to eight weeks. The applicants are summoned for a formal hearing in advance regarding the day and time usually 10 to 15 days in advance for appearing in person or depute his/her lawyer to the deputy/assistant commissioner. Make sure that you are prepared with all original documents especially trust deed while going to charity commissioner office for the verification.

After completing the enquiries the deputy/assistant commissioner makes entries in the register kept under section 17 of the Bombay Public Trusts Act (or state specific trust act) and issues a certificate of registration with official seal and registration number of the trust. This completes the formalities of registering CBO as trust.

b. Under Society Act

The Act

One may register a CBO under the Society Registration Act 1860. To register CBO as society one needs to make the application to the Assistant Registrar of Societies or Assistant Charity Commissioner (as it differs from state to state) having the jurisdiction over the region/sub region in which the society is to be registered.

Procedure & Documents for application

To register a CBO as a Society, the following documents must be included with the application.

- 1. Memorandum of association
- 2. Rules and regulation
- 3. Consent letters of all the members of managing committees
- 4. Authority letter signed by all the managing committee members
- 5. An affidavit sworn by the president or secretary of the society on non-judicial stamp paper of Rs.10/-, together with a court stamp fee, and
- 6. A declaration by the managing committee members that the funds of the society will be used only for the purpose of achieving the aims and objectives of the society.

Thus it is essential that all above documents are prepared very carefully. To prepare above mentioned documents *refer the appendix 5 to 10*.

In the states like Maharastra, since the Registrar of Societies is the Charity Commissioner, the society also has to be registered as a trust. Hence an application should also be made under section 18 of the Bombay Public trust Act, 1950.

<u>Fees & time</u>Above mentioned documents should be submitted in duplicate along with registration fees of Rs.50/-.

NOTE: Like the Trust Deed, the memorandum of association and rules and regulation need not to be executed on a stamp paper. The process of registering CBO as society takes generally longer than trust.

c. Under Company Act

Act & fees

To register CBO under section 25 of Companies act the first step is the application for availability of name to the Registrar of the Companies, which should be in the prescribed form no.1A. (Refer Annexure 11 for detail) along with a fee of Rs.500/-. One should suggest at least three names by which the proposed organization may be registered.

Application and procedure

On confirmation of the availability of one of the name, a written application should be made to the Regional Director of Company Law Board.

- Three printed or typewritten copies of the memorandum and articles of association of the proposed company, duly signed by all the promoters with full name, address and occupation. (*Refer to appendix 12 & 13*)
- A declaration by an advocate or a chartered accountant that the memorandum and articles of association have been drawn up in conformity with the provisions of the Act and that all the requirements of the Act and the rules made there under have been duly complied with, in respect of registration or matters incidental or supplementary thereto. (*Refer Appendix 14*)

Documents

- Three copies of a list of the names, addresses and occupations of the promoters (and where a firm is a promoter, of each partner in the firm), as well as that of the members of the proposed board of directors, together with the names of companies, associations and other institutions in which such promoters, partners and members of the proposed board of directors are directors or hold responsible positions, if any, with description of the positions so held.
- A statement showing in detail the assets (with the estimated values thereof) and the liabilities of the association, as on the date of the application or within seven days of that date.
- An estimate of the future annual income and expenditure of the proposed company, specifying the sources of the income and the objects of the expenditure.

- A statement giving a brief description of the work, if any, already done by the association and of the work proposed to be done by it after registration, in pursuance of section-25.
- A statement specifying briefly the grounds on which the application is made.
- A declaration by each of the persons making the application that he/she is of sound mind, neither an undercharged insolvent nor a convicted by a court for any offence

and does not stand disqualified under section 203 of the Companies Act 1956, for appointment as a director. (*Refer Appendix 15*)

The applicants must also furnish a copy of the application and other documents that had been filed before the Regional Director of the Company Law Board to the Registrar of Companies (of the state in which the registered office of the proposed company is to be situated).

The applicants should also, within a week from the date of making the application to the Regional Director of the Company Law Board, publish a notice in the prescribed manner (*Refer appendix 16*) at least once in a newspaper in the principal language of the district where the Registered Office of the proposed company is to be situated or is situated and circulate in that district, and should be circulated at least once in an English newspaper in that district.

The Regional Director may within his discretion decide or determine whether the license should or should not be granted, after considering the objections, if any, received within 30 days from the date of publication of the notice in the newspapers, and after consulting any authority, department or ministry.

The Regional Director may also direct the company to insert in its memorandum, or in its articles, or in both, such conditions of the license, as may be specified by him in this regard.

Time

It generally takes about eight to twelve weeks to receive the license after application under the Company Act.

d. Under Cooperative Act

The Act

There are two types of societies, one that is registered under the Societies Registration Act of 1860 and the other that is registered under The Cooperative Societies Act. The difference between the two depends on the object of the society.

- a) A society, which has its object for the promotion of the economic interest or general welfare of its members or of the public, in accordance with cooperative principles or
- b) A society established with the object of facilitating the operations of any such society may be registered under this act.

The society, which, has its object the following:

- Promotion of the economic interests or general welfare of its members or of the public'
- In accordance with co-operative principles or
- With the object of facilitating the operation of such society
- It is economically unsound or
- Its registration may have an adverse effect upon any other society
- It is opposed to or its working is likely to be in contravention of public policy

The objects must be clearly, definitely and exhaustively specified in the bi-laws of the society as they have to be approved before registration. The main object acts as limitation factor for operation of such societies as they cannot have objects other than those specified.

Examples of the objects of the society

- To give loans to members and non-members
- To purchase raw material or other material
- To sell products of society (agricultural or industrial)
- To purchase and sell to members food stuffs and household necessities
- To purchase/acquire implements of agriculture and industry for its members
- To acquire and construct building for members
- To cultivate the land pooled by members
- To borrow money and give loans to other members of society
- To purchase from or sell to members; reading, writing, games and recreation materials (specially amongst students' societies)

Six point plan to achieve the above objects

The following must be the basis for the promotion of economic interest of members in accordance with the Act.

- Thrift
- Self-help
- Mutual aid
- Participation by weaker sections
- Equal distribution of profits
 - o In accordance with the Co-operative Principles
 - Voluntary and open membership
 - o Democratic control by members
 - o Economic participation of members
 - o Autonomy and independence
 - o Education, training and information to members
 - o Cooperation among co-operatives

Societies can be registered with limited or unlimited liabilities

A Co-operative Society whose members are individuals as well as societies may be registered with a limited or unlimited liability.

A Co-operative Society, whose member is not any other society may be registered with unlimited liability, If, a society is not registered, the liability means unlimited liability and the creditor may sue any member for debts.

Conditions for registration:

- No society, other than a federal society shall be registered under this act unless it consists of at least ten persons (each person being a member of a different family) who are qualified to be members under this Co-operative Society Act and who reside in the area of operation of the society.
- No society with unlimited liability shall be registered unless all persons forming the society reside in the same town or village or in the same group of villages.
- No federal society shall be registered unless it has at least five societies as members.
- The word limited or unlimited shall be the last word in the name of every society with limited or unlimited liability as the case may be which is registered or deemed to be registered under this act.

NOTE: The Multi-State Co-operative Societies Act 2002 is to consolidate and amend the law relating to co-operative societies with objects not confined to one state and serving the interest of members in more than one state. This is to facilitate the voluntary function and democratic functioning of co-operatives as people institutions based on self-help and mutual aid. To enable them to promote their economic and social betterment and provide functional autonomy, for matters connected therewith or incidental.

Application for registration

For registration, an application shall be made to the Registrar of Co-operatives in the prescribed form and shall be accompanied by four copies of the proposed bi-laws of the society.

The application shall be signed by each of ten persons who are qualified under this act, in the case of a society other than, federal society and by at least five societies in the case of a federal society. No signature on the application on behalf of a society shall be valid unless the person signing is a member of the committee of such society and is authorized by the committee by resolution.

In Gujarat, the application shall be in form A and shall be accompanied by the following:

- A certificate from the bank or banks stating the credit balance in favour of the proposed society therein
- A list of persons who have contributed to the share capital together with the amount contributed by each of them and the entrance fees paid by them
- The scheme showing the details explaining how the working of the society will be economically sound and where the scheme envisages the holding of immovable property, proposed to be purchased, acquired or transferred to the society.

On receipt of an application form if the Registrar is satisfied that the society has complied with the provisions of the Act and the Rules of Registration and that its bi-laws are not contrary to this Act or Rules, he shall register the society and its bi-laws. If the registrar is of opinion that the application complies with the requirements of section 8 but that its bi-laws are not in conformity with provision of the Act and the Rules he may provisionally register the society and by an order in writing direct the society to amend within the period prescribed on this behalf. It must comply with its bi-laws so as to bring them in conformity with the Act

When a society has been provisionally registered the Registrar shall on its compliance with the order made as mentioned above finally register it and its bi-laws and on its failure to comply with the order shall cancel its provisional registration.

A provisionally registered society shall not be deemed to be a society registered under this act. On registration of a society the Registrar shall issue a certificate of registration signed by him. If, not registered the Registrar will communicate the reasons for not registering, to the person who has signed first on the application.

9.0 GETTING TAX EXEMPTION

a.) Income Tax Act

The Income Tax Act, 1961 is a federal/central piece of legislation that affects all non-profit organizations (trust, society or company) uniformly throughout India. Out of 298 sections of the Act, only a few, namely sections 2(15), 10, 11, 12, 13, 35 and 80G, are of special importance to non-profit organizations.

Like other charitable institutions, a CBO also must file returns of income annually within the prescribed time limit. Returns have to be filed every year at the State level with the Charity Commissioner or Registrar of Societies, as the case may be and at the federal level with the Income Tax authorities and also the Home Ministry in case the organization is registered under the Foreign Contribution (Regulation) Act.

b) Minimum conditions for availability of exemptions and the tenure

CBOs in India are not liable to any income tax. This exemption is not automatic. One has to claim exemption through an application to the Commissioner of Income Tax for registration of the NGO u/s 12A of the income tax act. Such an application is to be made in Form 10A. (Refer Appendix 18). Once the CBO is registered under the Act, Income tax authorities do not provide the exemption automatically. Exemption of income tax would only be available on compliance with, various conditions under the Income Tax Act.

The conditions under which NGO/CBO may get tax exemption are as follows (but these conditions are indicative not necessarily limited to)

- 1. The non-profit Organization must utilize at least 85% of its income in any financial year (1st April to 31st March) on the objects of the Organization. In case the Organization is unable to spend 85% of its income in the previous financial year due to late receipt of income or any other reason, the trustees may exercise the option to spend the surplus during the immediately following 12 months. Surplus income can also be accumulated for a period ranging from 1 to 5 years, for specific projects.
- 2. The funds of the Organization are deposited according to the forms and modes specified u/s 11(5) of the Income Tax Act.
- 3. No part of the income or property of the Organization is used or applied directly or indirectly for the benefit of the founder, trustee, relative of the founder or trustee or a person who has contributed in excess of Rs.50000/- to the Organization in a financial year.
- 4. All private religious trusts and non-profit organizations created after 1-4-1962 which are for the benefit of any particular religious community or caste are not eligible for tax exemption (u/s 11 and 12). However, a non-profit organization for the benefit of scheduled castes, backward classes, scheduled tribes, women and children which, is not considered as an organization for a

particular religious community or caste and as such, then its income is exempt.

5. The income of certain non-profit organizations engaged in activities pertaining to scientific research, education and charitable hospitals are exempted from payment of tax by various provisions contained in a group of different clauses of section 10 of the Income Tax Act.

c) Procedure for application and minimum requirements

In order to obtain exemption u/s 11 of the Income Tax Act, (i.e., to exempt the income of the Organization from tax) the NGO/CBO must apply before the expiry of a period of one year from the date of the creation of the non-profit organization, in the prescribed form no. 10A. (Refer Appendix 18)

The application must be submitted along with the following.

- i. Form 10A
- ii. The original and certified photocopies of the instrument creating the non-profit Organization such as trust deed or memorandum and articles of association.
- iii. Certified copies of the registration certificate obtained from the Charity Commissioner's office or the Registrar of Societies or Companies, and where the organization has been in existence during the year(s) prior to the financial year in which the application is made.
- iv. Copies of the accounts of the organization relating to the year, or three immediate years proceed the year in which the application is made.

The application is to be submitted to the Commissioner of Income Tax in whose area the NGO/CBO is located. However, in case of the metropolitan cities of Calcutta, Chennai, Delhi and Mumbai, the applications are to be made to the Director of Income Tax (Exemption).

The acceptance or refusal for registration under income tax is generally informed within six months from the end of the month in which the application was made.

Once the non-profit organization is registered u/s 12A of the Income Tax Act, it does not mean that the benefits of sections 11 and 12 will automatically be available to the Organization. Benefits under these sections are available only on complying with the conditions prescribed u/s 11 and 13 of the Income Tax Act. The Assessing Officer determines on a year-to-year basis whether a particular trust is entitled to the benefits of sections 11 and 12.

If a trust loses exemption u/s 11 on account of holding investments in contravention of section 13(1)(d) or on account of diversion of the income of funds to any individual specified u/s 13(3), the income of the trust is chargeable at the maximum marginal rate.

d. Applying for Different Tax benefit Acts

80G Certificate

If the organization has 80G (5) certificate, the donor is entitled to a 50 % tax deduction/rebate for donations made for non-profit.

The application for approval of any non-profit u/s 80G (5) of the Income Tax Act should be in the prescribed Form No. 10G.

The application should be submitted along with the following.

- 1. Copies of the Organization's charter
- 2. Registration certificate (from the office of the Charity Commissioner, the Registrar of Societies or Registrar of Companies);
- 3. 12A certificate issued by the Income Tax Department exempting the income of the Organization from tax.

Donations that come under 80G

- Donations to religious non-profits or those for the benefit of any particular religious community or caste do not qualify for rebates. Such organization may create separate 'women and children fund' and donation to that account is considered under 80 G.
- Places of worship like temples, mosques, *gurudwaras*, churches or other places notified by the Central Government to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any state or states may also apply for, and secure exemption, u/s 80G (2) (vii) (b) of the Income Tax Act for renovation or repair. A donor contributing towards the repair or renovation of such a place of worship would be entitled to a 50% tax rebate while computing income for tax purpose.

Maximum limits and other formalities

The amount donated, however, should not exceed 10% of the donor's gross total income as reduced by the deductions (other than the deduction u/s 80G) for the purpose of rebate. If the donation is in excess of 10% of the donor's gross total income, the amount in excess of 10% cannot be considered for deduction under this section.

Donations in kind (like computers, medical equipment, vehicles, etc.) are not eligible for deduction u/s 80G. The donation must be a certain sum of money.

Receipts issued to donors by non-profit Organizations should bear the number and date of the 80G certificate and indicate the period for which the certificate is valid.

Approval under Section 35AC

Under this Act, donation made to an organization having 35 AC is 100 % tax deductible for a donor.

Note: 35 AC certificate is given for specific notified and eligible projects and not for the organization as whole.

The application for approval of an association or institution for the purpose of section 35AC should be forwarded to:

The Secretary of the National Committee for Promotion of Social and Economic Welfare, Department of Revenue, Ministry of Finance, Government of India, North Block, New Delhi 110 001.

The application should be submitted in two sets, written either in English or Hindi, and accompanied with details about the name, address and status of the applicant.

The national committee usually recommends to the Central Government, a project or scheme for notification as an eligible project or scheme (u/s 35AC) for an initial period of three financial years and is extended for further 3 years period if the committee is satisfied with the project or scheme and its implementation.

In granting approval to any project or scheme undertaken by a company, the National Committee must be satisfied regarding where the expenditure is going to be incurred in the acquisition or erection of a capital asset (like dwelling units for the economically weaker sections, etc.), the applicant company has made adequate arrangements for divesting itself off the ownership of such asset, without consideration in cash or otherwise, immediately on completion of the eligible project.

Immediately on completion of an eligible project/scheme, the company must furnish details of the execution thereof to the National Committee. The National Committee must satisfy itself that the project/scheme has been completed in accordance with the approval granted and that the company has divested itself off the assets in the manner prescribed by the National Committee. If the National Committee is not so satisfied, it may, after giving an opportunity of being heard on the proposed action, order withdrawal of the approval, which shall then, be deemed never to have been granted.

The following is the indicative list of projects eligible for exemption u/s 35AC

- 1. Construction and maintenance of drinking water projects in rural areas and in urban slums, including installation of pump-sets, digging of wells, tube-wells and laying of pipes for supply of drinking water
- 2. Construction of dwelling units for the economically weaker sections
- 3. Construction of school buildings, primarily for children belonging to the economically weaker sections of the society
- 4. Establishment and running of non-conventional and renewable source of energy systems
- 5. Construction and maintenance of bridges, public highways and other roads;
- 6. Pollution-control projects
- 7. Promotion of sports
- 8. Leprosy eradication or
- 9. Any other program for uplift of the rural poor or the urban slum dwellers which the National Committee may consider fit for support, including family welfare and immunization, tree plantation, social forestry, development of irrigation resources, rural sanitation (such as construction of low-cost toilets), medical camps in rural areas, rural health programs, land development and reclamation of waste land or degraded land with special emphasis on ecological improvement, soil and water conservation including harvesting of run-off water, non-formal education and literacy, specially for women and children, rural non-farm activities, creation of employment opportunities for urban and rural population living below the poverty line, supportive services for women to engage in productive work (care of children of working women by providing an improved environment, care and food and by establishing creches/balwadis, etc.

Approval under u/s 35(1)(ii) and (iii)

1. Exemption under this act

The donors are given weighted deduction on the donations made to the organizations approved u/s 35(1) (ii) or 35(1) (iii). The organizations involved in 'scientific research' or 'research in social science or statistical researches' are eligible for the same.

2. Application

Application for the same should be submitted in the prescribed form no. 3CF to following address:

The Director-General, Income Tax (Exemptions) 10, Middleton Row, 5th floor, Calcutta 700 071

The application should be made in triplicate, through the Commissioner of Income-Tax having jurisdiction over the applicant.

Six copies of the application with relevant enclosures should also be sent to the following address:

Department of Scientific and Industrial Research Technology Bhavan New Mehrauli Road New Delhi 110016.

3. Reporting and Management

An Organization which is approved u/s 35(1) (ii) or 35(1)(iii) must maintain a separate account of the sums received by it for 'scientific research' or 'research in social science or statistical research' and must submit to the prescribed authority, each financial year, a copy of the audited annual return showing the total income and expenditure and balance sheet indicating its assets and liabilities.

The auditors should also certify that amount received by the Organization for 'scientific research' or 'research in social science or statistical research' is spent for that purpose only.

4. Permanent Account Number (PAN)

Every charitable trust that is required to file the return of income under section 139(4A) of the Income Tax Act, has also to apply for allotment of permanent account number (PAN), if not already allotted.

The application should be made in the prescribed form no.49A to the income tax officer, trust circle. In the income tax department, a separate file is maintained for each assessee and for identification purpose each file is given what is generally known as general index registration number (G.I.R. No.). The scheme of permanent account number has been introduced with a view to give each assessee a permanent all-India number and link various transactions relating to each tax payer.

5. Gift Tax

A donor does not pay Gift Tax provided the donation is made to a non-profit Organization having an 80G certificate. Gift tax is chargeable at a flat rate of 30% for a donation exceeding a sum of Rs.30000/- made to an Organization not having the 80G certificate.

6. Customs Duties

Non-profit Organizations involved in relief work and in the distribution of relief supplies to the poor and needy without distinction of caste, creed or race are one hundred per cent exempt from customs duty with regard to import of items like foodstuff, medicines, clothing and blankets, whether by way of free gift from abroad or purchased out of donations received abroad, provided the items are for free distribution to the poor and the needy without any distinction to caste, creed or race.

Charitable and missionary institutions are also eligible to import utility vans, ambulances, wagons, jeeps, mini-buses or passenger transport vehicles as gifts, subject to the condition that the institution is an established one, functioning for the common benefit of the community and subject to production of necessary clearance under the Foreign Contribution (Regulation) Act.

The Government of India, by a notification dated 28-2-1993, has exempted hospitals that run on a charitable basis from customs duty on medicines, drugs and hospital equipments. The Government has notified a total of 319 drugs and 56 equipments in this regard. Certificates from the director-general of health services and the ministry of health and family welfare are required for eligibility of this exemption.

The Central Government has also granted exemption from customs duty on the import of scientific/technical instruments, parts, components or accessories and computer software to research institutes, provided they produce a certificate to the effect that the imported goods are essential for research, and they shall be used only for such purposes by the institutes. The institutes, however, should not be engaged in any commercial activity.

10.0 GETTING FCRA

a. What is FCRA?

The Foreign Contribution (Regulation) Act [FCRA], 1976, is a central piece of legislation and affects all persons and associations uniformly throughout India. All registered, non-profit Organizations in India come under the purview of the Foreign Contribution (Regulation) Act.

Any Charitable Trust, Society, Company, desirous of receiving any foreign contribution from a foreign source, is required to obtain registration under section 6(1) of FCRA any such association which is not registered or which has been denied registration, can receive foreign contribution only after obtaining prior permission from home ministry of the Central Government under section 6(1A) of the Act.

Thus to receive foreign contributions, a non-profit has to either:

- i. Be registered with FCRA (using Form FC-8) or
- ii. Obtain prior permission from the Central Government (FCRA department) using form FC-1A.

b. Competent authority for sanctioning FCRA/ What is Foreign Contribution?

The Internal Security Wing of the Ministry of Home Affairs, Government of India is the competent authority, which enforces this act.

A foreign contribution means donation, delivery or transfer made by a foreign source of any of the following:

- 1. Any article, unless given to an individual for personal use, the value of such article in India at the time of the gift not exceeding Rs.1, 000.
- 2. Currency, foreign or Indian, however meager the amount, which also, includes money received from a foreign source in Indian currency.
- 3. Foreign securities including all foreign debentures, bonds, shares, stocks and similar instruments of credit. The small or insignificant size of the foreign securities involved is no consideration for exemption.

As per section 2(1) (e) of the Foreign Contribution (Regulation) Act, Foreign source includes;

- i) The government of any foreign country or territory and any agency of such Government.
- ii) Any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification in the official gazette, specify in this behalf.
- iii) A foreign company within the meaning of Section 591 of the Companies Act, 1956 (1 of 1956), which includes;
 - A company which is a subsidiary of a foreign company and
 - A Multi-National Corporation within the meaning of this Act.

- A Corporation, not being a foreign company, incorporated in a foreign country or territory.
- iv) A multi-national corporation within the meaning of this Act.
- v) A company within the meaning of the Companies Act, 1956 (1 of 1956), if more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:
- vi) Government of a Foreign country or territory;
- vii) Citizens of a Foreign country or territory;
- viii) Corporations Incorporated in a foreign country or territory; an
- ix) Trusts, Societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory.
- x) A trade union in any foreign country or territory, whether or not registered in such foreign country or territory.
- xi) A foreign trust by whatever name called, or a foreign foundation, which is either in the nature of trust or is mainly financed by a foreign country or territory.
- xii) A society, club or other association of individuals formed or registered outside India.
- xiii) A citizen of a foreign country.

Besides foreign governments and their agencies, any organization whose controlling authority is vested in foreign is considered as a foreign association. It is worthwhile to note that Money received in Indian currency from companies in India that are foreign-controlled is also considered as foreign contribution.

Funds collected by an Indian citizen, in a foreign country, on behalf of an association registered in India will be considered as 'foreign contribution' received by the association registered in India.

Funds sent by Indian associations (registered or unregistered) in a foreign country, to an Indian association (registered or unregistered) in India will also be treated as 'foreign contribution'.

Foreign institution, which have been permitted by the Central Government, by notification in the official gazette, to carry on activities in India are **not** considered as a foreign source.

c. Minimum conditions for getting FCRA

The minimum conditions for obtaining a registration under the Foreign Contribution (Regulation) Act (FCRA) are as follows.

- 1. The organization must be incorporated as a legal entity, that is, as a Charitable Trust, Society, or a Company (u/s. 25)
- 2. The organization should have been working for a period of at least three years.
- 3. The organization must not have received any foreign contribution earlier without prior permission of the Government.

d. Procedure for getting FCRA

Non-profit organizations/CBOs can accept foreign contributions only after being registered with, or after seeking the prior permission of the Central Government in accordance with the rules made under the Foreign Contribution (Regulation) Act, 1976.

The application for registration of a Non-profit Organization for acceptance of Foreign Contributions should be made in the prescribed form FC-8. (Appendix 19 to 22)

For registration, one needs to submit -

- i) Form FC-8 duly filled up in triplicate
- ii) Audited statement of accounts of past three years
- iii) Annual Report specifying activities of past 5 years
- iv) Detail of the beneficiaries and detail of the socio-economic factors of the region in which the organization is working
- v) List and geographical detail of the state, and districts proposed for work
- vi) Certified copy of the Registration Certificate
- vii) Certified copy of the Bye-laws and Memorandum and Article of Association whatever is applicable
- viii) Copy of certificates of exemption or registration issued by the Income Tax Department u/s. 80G and 12A
- ix) Copy of any prior permission granted to the organization
- x) Copy of resolution of Governing Body of the Organization, authorizing the registration under FCRA
- xi) Copy of Power of Attorney or the resolution of Governing Body by which the Chief Functionary is authorized to submit FC-8
- xii) List of present members of the Governing Body of the Organization and the office bearers
- xiii) Copy of any Journal or other publication of the organization.

Applications for registration are normally disposed off within six months. Applications seeking prior permission are disposed off within 90/120 days. The production of verification certificate referred to in the last column of the application forms, would expedite the process of registration/prior permission.

The application for seeking prior permission or registration are to be sent by registered post to the Secretary, Ministry of Home Affairs, FCRA Division, Lok Nayak Bhavan, Khan Market,

New Delhi – 110003. This is the competent authority to sanction FCRA to any Non profit organization in India.

e. Tenure of sanctions and time for reapplication and essential procedures

Once the registration is done as mentioned above the organizations are given a certificate mentioning the FCRA number. It is essential to adhere to the following procedures and formalities. Non-compliance to any of these may lead to cancellation of registration and other legal repercussions.

1. Bank Account

It is mandatory to maintain a separate bank account. This bank account should be specifically used for the receipt and utilization of foreign contributions. Local funds should not be deposited in this account; however the initial deposit required for the opening of an account can be made through local fund. For domestic contributions an organization may open separate bank account(s).

2. Separate Books of Accounts

A separate set of accounts and records should be maintained, exclusively for foreign contributions received and utilized, in the cashbook and ledger account on double-entry basis, where foreign contribution relates to currency received and utilized. Under no circumstances the FCRA transactions should be mingled with domestic contributions in the books of accounts.

3. Annual Return

A return in the prescribed form (Form FC-3) duly certified by a Chartered Accountant should be filed with the Ministry of Home Affairs within 120 days of the closure of the financial year. Organizations registered under the FCRA should file a 'Nil' return in the year or years when there is no receipt of foreign contribution. It may be noted that only FCRA-Balance Sheet and Receipt and Payment account are required to be filed with the Annual Return.

4. Non-Cash Contributions

It is mandatory to maintain accounts and records of all the foreign contributions received in kind.

5. Election

Organizations registered with FCRA require the approval of FCRA authorities if 50% or more of their office bearers have changed during election. This provision has been made to safeguard against commercial take-over of FCRA registered Organizations

6. Funds to Non-FCRA NGOs

FCRA registered organizations cannot give FCRA fund to organizations, which are not registered with FCRA department. In other words, FCRA funds can only be given to FCRA registered Organizations.

11. REPORTING

Reporting requirements under different acts for periodicity, procedures, and timeliness, under all the three acts i.e. Trust Act, Society Act and Company Act

A CBO should have proper system of reporting to the government authorities like Charity Commissioner, Registrar of Society or the Registrar of Companies on the following aspects.

[NOTE: All of these are not mandatory to report to the relevant authorities.]

Issues	Details	Reporting to whom	Reporting Period
Organization	Change in name,	Charity	As and when this occurs
management	address and objective	Commissioner/Registrar	but it should be
related	of the CBO	of Societies or	informed within one
		Company	month
	Change in the trustees	Charity	As and when this occurs
	or Area of operation	Commissioner/Registrar	but it should be
		of Societies or	informed within one
		Company	month
	Property purchase or	Charity	One should ideally take
	sale	Commissioner/Registrar	prior permission but if
		of Societies or	done it should be
D: : 1	ECD 4 C 1 1 1	Company	informed immediately.
Financial	FCRA fund related	Charity	Within two months of
management	reporting (As given in	Commissioner/Registrar	year end
related	the Chapter 5.5) Annual return & Nil	of Societies or	
		Company & Income tax commissioner &	
	return, Activity report etc	Secretary Home	
	Cic	ministry and Finance	
		department	
	Audited statement and	Charity	Within 3 months of
	Chartered Accountant	Commissioner/Registrar	financial year end
	report every financial	of Societies or	
	year within 3 months	Company & Income tax	
	of completion of the	commissioner	
	year		
Other issues	Annual reporting of	Charity	Maximum by end of 2 nd
related	activities	Commissioner/Registrar	quarter of next year
		of Societies or	
		Company & Income tax	
		commissioner	
	Inclusion or exclusion	Charity	As and when it happens
	of areas of work	Commissioner/Registrar	
		of Societies or	
		Company & Income tax	
		commissioner	

12.0 APPENDIX SUMMARY:

Appendix 1 to 4: Specimen of registration documents required under Trust Act

Appendix 5 to 10: Specimen of registration documents required under Society Act

Appendix 11 to 16: Specimen of registration documents required under Companies Act

Appendix 18: Specimen for registration under Income tax Act

Appendix 19 to 22: FCRA related

Appendix 23: Tax redemption related information

Appendix 1: Form of Application for Registration of a Public Trust Schedule II (Vide Rule 6)

Court Fee Stamp	To The	Deputy/Assistant	Charity	Commissioner, Region/Sub-Region
of Rs. 2/-	In the matt	er of Public Trust*		

I trustee of the above named public trust, hereby apply under section 18 of the Bombay Public Trust Act, 1950 for the Registration of the said public trust.

2	Loube	mit the following necessary particulars:-						
2.	(ai)	The designation by which the public trust is or shall be known. (Name of the Public Trust)						
	(i)	Names of the trustees and managers with their addresses						
	(ii)	Mode of succession to the trusteeship and managership	Mode of succession to the trusteeship and managership					
	(iii)	Objects of the trust:						
	(iv)	(a) Particulars of documents creating the translated (attach copies)	ust					
		(b) Particulars other than documents about the origin creation of the trust.	or					
	(v)	Particulars of the scheme, if any, relating to the track (attach copy).	ust					
	(vi)	Movable property with estimated value of each class of such property.						
		(Note:— Entries should be made by board description of classes of such property, e.g., furniture, books, etc., rather than of each individual article. Entry regarding cash should be made only if such cash forms part of the capital of the trust. In the case of scripts give particulars of each security, stock, share and debenture including the number which it bears).						
	(vii)	(a) Details of immovable properties showing to village or town where situate, along with C. Municipal or Survey No., area, assessment or July and description of the tenure on which held (attacertified copies of the entries in the Record of Right city survey record or municipal record relating the properties).	S., adi 2. ach ats, 3.					
		(b) Estimated value of each immovable property:—	1.					
			2.					
			3.					

		(viii)	Sources of income of the trust.			
		(ix)	Average gross annual income:-	1.	From Movable:–	
				2.	From Immovable :-	
		(x)	Average annual expenditure			
		(xi)	Amount of average annual expenditure:-			
			(a) on remuneration to trustees and manager			
			(b) on establishment and staff			
			(c) on religious objects			
			(d) on charitable objects			
			(e) on miscellaneous items (xii) Particulars of encumbrances, if any on trust Property –			
		(xiii)	Particulars of title deeds pertaining to trust property and the names of trustees in possession thereof –			
		(xiv)	Remarks, if any –			
			of Rs) accor			
	4.		communication to the trustee or manager in connection with the other following address:—	ie t	rust, may be	
		Name				
		Addre	ess			
		Date .	Signature of Applicant			
			above named inhabitar do solemnly affirm and say that what is st strue to the best of my information and belief.		residing a ed in the above	
afor 200	es 	-	firmed at			

Appendix: 2. Model Trust Deed of a Public Charitable Trust

THIS DEED OF	ΓRUST executed on this		day of
year 20, (Party of the first p	FRUST executed on thisBET part) hereinafter called " SET	WEEN TLOR OF THE TR AND	UST"
		<u> </u>	
1. SHRI.	S/O. SHRI	, of	&
2. SHRI.		, of , of	
3. SMT.	W/O SHRI.	, of	
meaning thereof be trustee for the time	d" The Trustees" which expr be deemed to include the sur be being of these presents and tee, their or his assignees) of the	vivors or survivor their heirs, executo	of them and the trustees or
(Rs	arty hereto of the first part i Only) as his absolute proper ional Trust for the benefit of t	rty and he is desire	ous of creating a Religious
	each of the parties hereto o s Trustees of the Trust, propo		, ,
do any act which activities of the tru	nothing contained in this de n may in any way be cons ast shall be carried out with a in accordance with the pro- tion thereof.	trued statutory moview to benefit the	odifications thereof and all public at large, without any
	the trust is hereby expressly his deed are to be constituted	-	ublic charitable trust and all
NOW THIS IND	ENTURE WITNESSTH AS	S FOLLOWS:	
1. SETTLEN	<u>MENT</u>		
delivering the	he first part, the settlor, doe only) in Trust, with the name said amount in cash which ecceipt of which they do here the the powers and	ne and for the ob the party of the ot	jects hereinafter stated, by ther part, the Tustees, have hold the same in and to the

2. NAME

The name of the Trust shall be "

3. PLACE

The principal office of the Trust shall be situated at _____ or such other place as the Trustees may from time to time decide. The Trust may also carry on its work at any other place or places, as decided by the Trustees.

4. OBJECTS

- a. Educational to run, maintain or assist any educational or other institution for coaching, guidance, counseling or vocational training or to grant individual scholarships for poor, deserving and needy students for elementary and higher education.
- b. Medical to run, maintain or assist any medical institution, nursing home or clinics or to grant assistance to needy and indigent persons for meeting the cost of medical treatment.
- c. Relief of the poor to give financial or other assistance in kind by way of distribution of books, notebooks, cloths, uniforms, or meals for the poor and indigent and to the persons suffer due to natural calamities.
- d. Other objects of general public utility
 - to acquire property for the sole use for public good by making it available for public purposes as for example, housing a library clinic, crèche and/or as a community ball to be available for public use as training classes, seminars, discourses and other public functions for benefit of the community in general.
 - ii. to undertake any other activity incidental to the above activities but which are not inconsistent with the above objects.

PROVIDED the Trust may assist/donate the other TRUST to carry out the various objects mentioned in the objects clause in such manner and to the extent the Trustees may decide upon from time to time.

5. FUNDS

The Trustees may accept donations, grants, subscriptions, aids or contributions from any person, Government, Local authorities or any other charitable institutions, in cash or in kind including immovable property without any incumbrance, but the Trustees shall not accept any receipt with any condition or terms inconsistent with the objects of the Trusts. While applying such receipts to the objects, the Trustees shall respect the directions, if any, by the granter. Any receipt with specific direction to treat the same as part of the corpus of the Trust or separate fund shall be funded accordingly.

6. **INVESTMENTS**

- i. All monies, which shall not immediately required for current needs shall be invested by the Trustees in eligible securities and investments, or in banks. Such investments shall be in the name of Trust or Trustees.
- ii. That the trustees shall invest the trust fund, carry on any business with the trust fund and/or enter into partnership on behalf of the trust, as they may deem fit.

iii.

- iv. That the trustees shall manage the trust fund and investments thereof as a prudent man would do the same. They shall recover all outstanding and meet all recurring and other expenses incurred in the upkeep or management thereof.
- v. That the trustees shall receive and hold the income of the trust on behalf and for the benefit of the beneficiaries under the trust.

7. POWER OF TRUSTEES

That the trustees shall have the following powers:

- . to manage all the assets and/or properties of the trust including the conduct of business;
- i. to appoint employees and to settle the terms of their service, remuneration and termination;
- ii. to look into the management of the trust;
- iii. to invest the funds of the trust, in bank or in the purchase of company shares or securities or other movable and movable and immovable properties;
- iv. to sell, alter, vary, transpose or otherwise dispose or alienate the trust properties or any investment representing the same for consideration and to reinvest the same;
- v. to pledge or mortgage the trust properties for raising loans;
- vi. to open the bank accounts in the name and on behalf of the trust and to operate the same;
- vii. To enter into a partnership on behalf of the trust with any other party or parties;
- viii. To pay all charges, impositions and other outgoings payable in respect of the trust properties and also to pay all cost of the incidental to the administration and management of the trust properties;
 - ix. To file suit on behalf of the trust and to refer to arbitration all actions proceedings and disputes touching the trust properties and to compromise and compound the suits filed;
 - x. To accept any gift, donation or contribution in cash or in kind from anyone for the objects of the trust;
- xi. To seek legal opinion of lawyers and/or Chartered Accountants as and when required:
- xii. To nominate their representatives for any of the aforesaid purposes.
- 8. The number of the trustees shall not be less than two but not more than five.
- 9. In case of any difference between the trustees, the opinion of the minority shall prevail.
- 10. Every trustee will be at liberty to nominate or appoint attorneys or agents and to delegate all or any of the duties and powers vested in him to such attorney or agent, and to remove such attorney or agent and reappoint other or others in his place.
- 11. No trustee shall be responsible or liable for any loss or any act of omission or commission by his constituted attorney or agent or employees or other trustees unless occasioned by his willful neglect or default.

- 12. Any of the trustees may retire on giving one month's notice in writing to the other trustee(s).
- 13. If any trustee dies or retires or becomes incapable or unfit to act, the continuing or surviving trustee or trustees shall appoint a successor in the place of such trustee.
- 14. If at any time the number of the trustees is less than two, the existing trustee shall appoint one or more trustees.
- 15. Upon the appointment of a new trustee the trust properties shall vest in the new trustee jointly with the continuing or surviving trustees, with the duties and power of the trustees set out hereinabove in this deed.
- 16. If the trust is determined by efflux of time, the corpus of the trust shall be divided amongst the beneficiaries in the shares as fixed by the trusees.

17. BANKING ACCOUNT

All income, subscription and pecuniary donations for the general purposes of the Trust and the income, investments and all other moneys from time to time forming part of the general revenue of the Trust shall on the same being received be paid into a banking account with any scheduled bank for the purpose of the Trust. The bank accounts shall be operated by the Managing Trustee along with any one of the remaining Trustees.

ACCOUNTS AND AUDIT

- 1. The Trustee shall keep proper books of account of all the assets, liabilities and income and expenditure of the Trust and shall prepare an Income and Expenditure Account and Balance Sheet for every year as on the last day of March.
- 2. The accounts of every year shall be audited by a Chartered Accountant or a firm of Chartered Accountants who shall be appointed for that purpose by the Trustees and the audited accounts shall be placed at a meeting of the Trustees, which shall be held before the end of the succeeding year.

18. IRREVOCABLE

This Trust is irrevocable.

19. AMALGAMATION

The trustees may amalgamate the trust with another Charitable Trust or Institution having similar objects with prior permission of the Charity Commissioner/Court/any other law as may be applicable for the time being.

20. WINDING UP

In the event of dissolution or winding up of the Trust the assets remaining as on the date of dissolution shall under no circumstances be distributed amongst the Trustees but the same shall be transferred to some other similar Trust/Organization whose

objects are similar to those of this Trust with the permission of the Charity Commissioner / Court / any other law as may be applicable for the time being.

The Trustees shall be indemnified against all losses and liabilities incurred by them in the execution of the Trust and shall have a lien over the funds and properties of the Trust for such indemnity.

IN WITNESS WHEREOF, The Parties hereunto have signed and delivered the presents on the day and year first hereinabove written.

	SETTLOR
WITNESS:	1. TRUSTEE
1.	2. TRUSTEE
2.	3. TRUSTEE

Appendix 3. Affidavit I, Shri/Smt/Kum. ______, Indian inhabitant, aged, occupation, resident years, , do hereby solemnly affirm and state as follows: 1. I an one of the trustees of _____ and have applied to the deputy/assistant charity commissioner,____ (specify region), for the registration of the said trust u/s 18 of the Bombay Public Trust Act, 1950. The statements made in and the contents of the said application u/s 18 are correct and true. 2. The above trust has come into existence by virtue of a trust deed dated , 19 .A sum of Rs. has been provided by the settlers for charitable purposes enshrined in the said trust deed, and the same is to be treated as the corpus fund of the trust. This amount of Rs. is presently with me and will be deposited in the suitable scheduled trust's account. with bank. after registration. The trust is a charitable body and its aims and objects are according to section 9 of the Bombay Public Trust Act, 1950. 3. The original trust deed dated ______, 19___, signed by all the trustees and settlor/s, is produced as exhibit _____ for verification and a copy thereof is filed as exhibit _____. The contents of the said trust deed are correct and true. A consent letter signed by all the trustees is produced as exhibit and all the signatures have been verified by me. The minimum number of trustees for this will always be and the maximum number will . 4. I also state that; I know all the signatories to the trust deed dated , 19 . i) There are no changes, till date, in the contents of the papers pertaining to the ii) registration of the trust. to the best of my knowledge and belief, no other trust has been registered at _____, iii) bearing the name till date, the trust does not have any movable or immovable property, save the iv) amount of Rs. contributed by the settlor/s. In view of the above, the trust may be registered as a public trust under the Bombay Public Trust Act, 1950, and the registration certificate handed over to me or such person I may authorize to collect the same. Solemnly affirmed at , this day of , 19 . (Signature of deponent)

Notary

Appendix 4: Consent Letter

То			
Deputy Charity Commissioner/Assistant Charity	y Commissioner		
Sir,			
Shri			
	(Name	of	Applicant
have applied for registration under B.P.T. information provided in the application are true. We state that a separate notice for the details of have no objection for the issue of Registration note that.	e, we have not to f the said applica	o say anything tion is no moi	The g more than that re necessary. We
Name of other	trustees		
(including the applicant)	Signat	ure	
1.			
2			
3			
4			
5			
6			
7			
I know all the above said signatories.	<u>.</u>		
	(Applio	cant Sign.)	
	Date :		

Appendix 5: An indicative Letter for Registering under Society Act

To

The Asst. Registrar of Societies Greater Bombay, Bombay

Sub: Registration of Society under Societies Registration Act, 1860 Name of the Society:

Dear Sir,

I request you to kindly register the aforesaid society under the Societies Registration Act, 1860. I forward herewith to you the following documents.

- i) Memorandum of Association
- ii) True copy of Rules and Regulations
- iii) Consent letters of all the members of Managing Committee
- iv) Authority letter duly signed by all the members of Managing Committee
- v) An Affidavit of the President or Secretary in respect of the address and property of the society duly stamped together with the Court Fee Stamp of Rs. 1.25
- vi) A declaration given by Managing Committee assuring the use of the fund of the society for the purpose for which they are collected

I further declare that the object, of the captioned society are in consonance with Section 20 of the Societies Registration Act, 1860 and that no other society exists, having the same or similar name to the name of the captioned society. I also declare that the captioned society is not registered under any other law and that I am agreeable to pay the registration charges of Rs. 50/-.

In view of aforesaid, I request you to register the aforesaid society immediately under the captioned Act.

Yours faithfully,

(Name & Address)

Encl: As aforesaid.

Appendix 6: Memorandum of Association

Office Address:

Objects of the Society:

The names, addresses, designations, ages, occupations and nationalities of all the members of the first Managing Committee of the Society to whom the management and business of the society is entrusted.

Every page						
of this	Sr.	Name	Address	Designation	Age	Nationality
Memorandum	No.	Occupation	on	_	_	-
must be	1.					
signed	2.					
by minimum	3.					
3 members	4.					
	5.					
	6.	(For regis	stration, the n	ninimum requireme	ent is seven)
	7.		,			

We the following member signatories of the society desire to form our society under the Societies Registration Act, 1860 and accordingly we have formed the said society, today; i.e., and we have signed the Memorandum for the purpose of the registration of the society under the Societies Registration Act, 1860.

Sr. No	Member Full Name and Address	Signature
1		
2		
3		
4		
5		
6		
7		

(If the member of the Managing Committee is more than seven, then name, address of all should be given and all should sign)

Place: Date:

I know the aforesaid persons who have signed this Memorandum in my presence.

Date:

Sign/S.E.M./Advocate/C.A./Notary

Full Name & Address with seal.

Appendix 7: Rules and Regulations of Society

- Definition of terms used in Bye-laws.
- Area of Operation.
- Accounting Year.
- Membership and procedure for enrolment.
- Kinds of membership.
- Termination of membership.
- General Body Meeting, its powers and functions.
- Notice of General Body Meeting and quorum.
- Extraordinary General Body Meeting and its functions.
- Managing Committee, Office Bearers.
- Term of Managing Committee and procedure of election of office bearers.
- Office-bearers of Managing Committee and their duties.
- Meeting of the Managing Committee and meeting on requisition.
- Notice of Meeting of Managing Committee and quorum.
- Rules of election of Managing Committee.
- Filling of vacancies in Managing Committee.
- Powers and duties of Managing Committee.
- Funds and income of the society or its utilization.
- Objectives based provision for expenditure (Percentage).
- Provision for loans and deposits.
- Provision regarding purchase and sale of immovable property
- Operation of bank accounts and other financial matters (who is empowered to operate the bank account).
- Maintenance of register of members.
- Provision for amendment in Rules and Regulations.
- Provision for change in the name and] Implementation will be according to Ss.12 object of the society] and 12A of the S. R. Act, 1060
- Desiplution of the society will be according to Ss. 13 and 14 of the S. R. Act, 1960.

The applicant should sign the format of application as mentioned in schedules 1, 2 and 6 to the Registration of Societies (Maharashtra) Rule, 1971 and the bye-laws should provide for the

Append	lix 8: Consent Letter	
То		
The Ass Bombay	st. Registrar of Societies	
Dear Si	r,	
Sub: Re Act, 180	egistration of Society 60.	under Societies Registration
bye-law	e undersigned being the members of the fire Society do hereby consent to Act access of the society. We have signed this letter in toke tion of the aforesaid society under the Societies Registration	ording to the aims, objects and en of our consent towards the
	aithfully,	
Sr. No.	Name	Signature
Sr. No. 1. 2. 3 4 5. 6. 7.		
2.		
3		
4		
5.		
6.		
7.		
(to	be signed by the office bearers of the Managing Comn	nittee)
Place Date :		
I know	the persons who have signed as aforesaid, signed in my	presence.
Signatu	re with Date	
`	/Advocate/C.A./Notary) me, Address & Seal.	

Appendix 9. Authorization letter for Society Registration

To			
The Ass Bomba	st. Registrar of Societies		
Dear Si	r,		
			mittee(Name and
Designathe Soc	ation) to carryout any ch	nanges/amendments in the p that the funds raised for th	apers necessary for registration of the society will only be utilized to
Sr. No.	Name		Signature
1.			
2. 3 4 5.			
4			
5.			
6.			
7.			
Place:		Accepted	
Date:		(One who accepts the Si	gnature with Date)

Appendix 10: Affidavit
(Rs. 10/- non judicial stamp paper with court fee stamp)
I, aged
occupation, resident of do hereby solemnly
affirm and state as follows:
1. I am the member of Society, (place) and have applied to the assistant registrar, (place) on (date), for the registration of the said society under the Societies Registration Act, 1860. The statement made in and the contents of the memorandum of association are correct and true.
The aforesaid society is a charitable institution and its aims and objects are according to section 20 of the Societies Registration Act, 1860.
2. I also state that:
 i) I know all the signatories to the memorandum of association of this society. ii) There are no changes, till date, in the contents of the papers pertaining to the registration of the society. iii) To my information, no other society has been registered or is in existence a(place) of a similar name. iv) Till date, the society does not have any movable or immovable property: (or) the following immovable property of the society is in the custody of Shri./Smt/Kum who is president/secretary of the society. Cash balance or Rs (Rupees only) is in hand of Shri./Smt./Kum in bank/post office in the name of the society. v) The place indicating the office address of the society, as indicated in the memorandum of association, is owned by me/rented. In support of this, I have enclosed with this affidavit, a true copy of document. In this connection, all the officer bearers of the society and I shall be fully responsible, in case any dispute or problem arises. vi) I shall be responsible to inform you of any change/s in the address of the above institution.
Place:
Date:
Signature of Deponent
Signed in my presence
Advocate/Notary

Appendix 11: Form No. 1 A. for availability of Names To, The Registrar of Companies Sir, Subject: Availability of names – information- furnishing of. We, the following applicants, are desirous of forming a company to be registered under the Companies Act, 1956, in the state of 1. Name and full address of the person(s) applying for the availability of the name. (In block capitals) 2. Proposed name of the company 3. state whether public or private 4. In case the proposed name mentioned in item (2) is not available, 3 names to be considered in the order preference 5. Main object of the proposed company 6. Names and address of the prospective directors and promoters, etc. 7. Particulars of the names and situation of registered office of other companies in the same group or under the same management. 8. Proposed authorized capital 9. Please furnish particulars and results of any application moved to this or any other registrar previously availability of name. 10. Particulars of remittance fee (Draft/IPO) Rs. Situation: Dated: Signature of the applicant

Appendix 12: Points to Be Covered Under Memorandum of Association

Memorandum of Association is	S	
Name of the Company is	_	
The Registered office of the Co.	will be situa	ated in the state of
Objects		
Main objects of the Co.	. to be perus	ed on incorporation.
Objects incidental or an	ncillary to th	ne attainment of the main objects
Other objects if any.		
The objects of the Co. e world.	extend to the	e whole of India and all other countries of the
Distribution of Income and Prope	erty of Com	pany.
Alteration of MOA & AOA.		
Liability of the members is limited	ed.	
Contribution of members in the e	event of win	ding up.
Accounts and Audit.		
Distribution of surplus amount of	n winding u	p.
		esses, descriptions and occupations are here up to to a company not for profit, in pursuance of this
Name, Address Description & S Occupation of the Subscribers S		Signature, Name, Address, Description & occupation of witness.
Place:		

Date:

Appendix 13: Points to Be Covered In Article Of Association:

- Interpretation
- Members including appointment and cessation
- Annual Budget and Subscription
- Copies of Memorandum & Articles to be sent to members
- Borrowing powers
- Meeting of members
- Meeting of Board of Directors
- Minutes
- Registers
- Powers of Board of Directors
- Remuneration to Directors
- Administration
- The Seal
- Books and Documents
- Accounts and Balance Sheets
- Audit
- Documents and Notices
- Indemnity
- Winding up.

We, the several persons whose names, addresses, descriptions and occupations are here up to subscribed are desirous of being formed into a company not for profit, in pursuance of this M.O.A.

Name, Address Description & Occupation of the Subscribers		Name, & occupation	Address, of witness.

Place:
Date:

Appendix 14: Declaration of Compliance with the requirement of The Companies Act, 1956 on Application for Registration a Company

Regi. No. of. Company:	The Companies Act, 1956	
Nominal Capital Rs.	Form No;1	
Name of the Company Limited		limited/ Private
Presented by		
I,	of	
director/manger/secretary of the _Limited. And that all the requirements of the of matter precedent to the registrat complied with. And I make this sole	chat I am * of the company, or a person name Companies Act, 1956, and the rules ion of the said company and incide emn declaration conscientiously, bel	limited/ Private thereunder in respect ntal therto have been
Date	Signature	
Place		
Witness		
Note: * An advocate of the Supremor a pleader entitled to appear befaccountant practicing in India.	e court of the H fore the High	igh court, an attorney court or a chartered
** State whether director, management Supreme Court/High Court.	ger, or secretary/chartered accoun	tant/advocate of the

Append	ix 15: Declaration	
under se	ection with the application of	for a license, being one of
i) ii) iii) iv) v)	I have not been found to be unsound mind by a court of cor I am not an undischarged insolvent; I have not applied to be adjudicated as an insolvent; I have not been convicted by a court of any offence; I do not stand disqualified under section 23 of the Coappointment as a director.	
	Signature of promoter/direct	tor of the company

Appendix 16: Publication of the notice of application under section 25 of the Companies Act, 1956

application has been	made to the Govern	ment of India for	25 of the Companies Acr license directing that a	body about
2. The principal obje	cts of the company a	are as follow:		
				_
			sociation of the propose	d company
3. Notice is hereby application may com	given that any pers municate such object f this notice, by lett	son, firm, compa etion to ht eregion er addressed to the	ny or corporation object nal director, within 30 da he regional ditector of the	ys from the
			(Name of applic	cant)
Dated this	day of	, 19	<u> </u>	

Appendix 18: Application for registration of charitable or religious trust or institution under section 12A (a) of the Income-tax Act, 1961

Form N	o. 10A [See	Rule I/AJ				
To The	Chief	Commissioner	or	Commissioner	of	Income-tax,
Sir,						
I,		on be	ehalf of			
(Name o	of the trust o	r institution)				
tax Act, Name of Address Name(s)	1961. The f f the *trust/i	registration of the sollowing particulars institution in full (In section) of author(s)/fouther trust or establishment	are furnis Block let under(s)	ters)	tion 12A	of the Income-
I also en	aclose the fol	s(es) of trustee(s)/ma llowing documents:		ent under which the	ne trust/i	institution was
(b)*	Original/cer	lished, together with tified copy of the of t of the institution, to	document	evidencing the crea	ition of t	the trust or the
		s if enclosed will be				
(2) Two	o copies of the	ne accounts of the *t	rust/insti	tution for the latest *c	one/two/t	three years
		nunicate forthwith a tion, made at any tir	•	tion in the terms of ter.	the trust,	or in the rules
Date			Designa	retion		

• Strike out whichever is not applicable

Appendix 19: Application for seeking prior permission of the Central Government for accepting foreign contribution by or on behalf of an Organization of political nature not being a political party

Form FC-1 [*Rule 3(a)*]

[Sections 5(1) and 5(2)(a) of the Foreign Contribution (Regulation) Act, 1976]

a. Particulars of the Organization (Full name in block letters, and address)

Address of the principal/head office of the Organization

Full particulars of the person applying on behalf of the Organization:

- Name in full (in block letters)
- Name of father
- Occupation
- Residential address
- If an office bearer, the office held in the Organization

Reference of the order published by the Central Government in the Official Gazette specifying the Organization as an "Organization of political nature, not being a political party".

- Nature and full details of contribution including value, to be received.
- The mode/channel of receipt.
- Purpose for which foreign contribution is proposed to be received.

Particulars of the foreign source from which contribution to be received:

If an individual, his personal particulars including name, present address, permanent address, nationality, profession

If an Organization/institution/association/trust/foundation/trade union, etc., full particulars thereof including:—

- Full name and complete address
- Address of head office/principal office
- Aims and objects
- Particulars of important office bearers
- Nature of connection/dealings with the foreign source
- Any other information of significance which the applicant may like to furnish

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Place	 Signature of the applicant
Date	

Note: In case of application by an Organization, it should be signed by the chief functionary.

Appendix 20: Application for seeking prior permission from the Central Government under the Foreign Contribution (Regulation) Act, 1976 for the acceptance of foreign contribution by an Association having definite cultural, economic, educational, religious or social program

[Form FC-1A]	
No	Date
То	
The Secretary of the Government of India, Ministry of Home Affairs, Lok Nayak Bhavan New Delhi - 110 003	, Khan Market,
, <u>, , , , , , , , , , , , , , , , , , </u>	permission of the Central Government under ation) Act, 1976 for acceptance of foreign
Sir,	
permission of the Central Government for	tion named hereafter, apply for seeking prior the acceptance of foreign contribution under er sub-section (1A) of that section or clause (b)
 i. Name of the Association and its complete Name Address Town/City State District 	postal address:

If the Association is a registered trust or Society please indicate its-

- registration number,
- place of registration,
- date of registration, (certified copy of the registration certificate to be attached.)

Nature of Association:

Pin Code

(a) religious

(b) cultural (c) economic (d) educational (e) social.

Note: If a religious Association, then state whether (a) Hindu (b) Sikh (C) Muslim (d) Christian (e) Buddhist (f) Others.

Please indicate the main aims(s) and object(s) of the Association (enclose copy of the Memorandum of Association and/or the Articles of Association, if applicable).

Please furnish the names and addresses of the members of the Executive Committee/Governing Council etc. of the Association including the Chief Functionary, in the following manner:

Sl.No.	Name	Name of	Nationality	Occupation	Office held in	Relation with	Address
		Father/			the Association,	other office	
		Husband			if any	bearers, if any	
1	2	3	4	5	6	7	8

Please indicate whether any member of the Executive Committee/Governing Council etc. of the Association, including the Chief Functionary has, in the discharge of his/her official functions—

- been convicted by any court of law;
- a prosecution for any offence pending against him/her;
- been found guilty of diversion or misutilisation of funds of the Association or any other Association in the past.

Please indicate whether the applicant/Association—

- is a branch/unit/associate of foreign based Organization or another Association already registered under the Act. If so, name and address of the parent Organization should be furnished;
- has been directed by the Central Government in terms of the proviso to sub-section (1) of section 6 of the Act to seek prior permission. If so, the number and date of the relevant order should be furnished;
- has been directed by the Central Government in terms of section 10 of the Act to seek prior permission. If so, the number and date of the relevant order should be furnished.

Please indicate—

Whether the Association ever applied for registration under the Act in the past, if so,

- the date of submission of application for registration;
- the number and date of last reference, if any, received from the Ministry;

- whether registration was refused;
- whether the application for registration is still pending;

Whether the Association has close links with another Association, or its unit or branch which has been

- refused registration under the Act,
- prohibited from accepting foreign contribution.

Please indicate,—

Whether the Association was,—

- granted prior permission to receive foreign contribution under the Act in the past. If so, the number and date of the letter granting prior permission should be furnished;
- whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed form. If so, the date of submission of the accounts should be furnished;

If the prior permission was granted in the current year, details of the foreign contribution received and utilised, purposewise, showing the unspent balance should be annexed.

Whether the Association has received foreign contribution without the prior permission of the Central Government, in the past. If so, –

- full particulars of the foreign contribution received, address of the branch of the bank and account number in which deposited should be furnished;
- whether the said violation has been condoned by the Central Government;
- whether the Association has been prohibited from accepting foreign contribution under the Act

Please indicate whether the Associations is owner/printer/publisher, editor of a publication which is a "registered newspaper" under the Press and Registration of Books Act, 1867.

Please furnish—

- details of the activities of the Association during the past three years;
- Copies of the audited statement of accounts of the Association for the past three years.

Please indicate the—

- a. nature and value of the foreign contribution to be received (a copy of the latest commitment letter from the donor should be furnished);
- b. the purpose for which the foreign contribution is proposed to be received and utilised indicating also the geographical area(s) to be covered

a copy of the proposal/project which has been approved by the foreign source for funding, including projected outlays/budget breakup, should be enclosed.

a copy of the proposal/project which has been approved for funding out of the foreign contribution should be enclosed (This column applies only to subsequent recipients)

Please indicate—

- the name of the bank and address of the branch through which the foreign contribution is proposed to be received;
- the account number in the said branch of the bank.

Please indicate the particulars of the foreign source or the sources from which, the foreign contribution is proposed to be received:—

If an individual, his personal particulars including name, present address, permanent address, nationality, profession;

If an Organization/institution/association/trust/trade union etc. full particulars thereof, including—

- Full name and complete address.
- Address of the Head office/principal office.
- Particulars of Chief Functionary and important office bearers.

Please indicate whether the foreign source is a Government of a foreign country or agency thereof.

10A. Whether a recommendation certificate from the competent authority is attached (Yes/No).

11. Any

other information which the Association may like to furnish.

Yours faithfully,

Signature of the Applicant
[Name of the Chief Functionary or
authorised office bearer (with seal of the Association)]

DECLARATION

I hereby declare that the above particulars furnished by me are true and correc

Place:

Signature of the applicant [Name of the Chief Functionary or authorised office bearer (with seal of the Association)

- * If the foreign contribution, whether currency or articles is to be received from any person or Association who has received the same as first, second or subsequent recipient, particulars of such person or Associations should be given against column 10 above.
- Note:1. An incomplete application i.e., without necessary documents/details/explanations is likely to be rejected summarily.
 - 2. In case the space against any column is insufficient, separate Appendix should be attached.
 - 3. Please use Capital letters
 - 4. The application should be signed by the Chief Functionary or authorised office bearer of the Association.

[Certificate]

This is to certify that the (name of the Association having its registered office at
(Address) has been formed for undertaking welfare activities in its chosen
(Economic, Educational, Cultural, Religious and Social) field of activity. The antecedents of
the Organization have been verified and there is nothing adverse against them.

Its proposed project would be undertaken in the (District) of (State). The said project is likely to prove beneficial to the people living in the area.

Grant of prior permission to the aforementioned association to accept foreign contribution amounting to (Currency/Amount) from (Name and address foreign donor) under the Foreign Contribution (Regulation) Act, 1976 for the said project is recommended.

(Recommending (With Seal)

Authority)**

- * Strike out whichever is not applicable.
- ** Any concerned.
- (1) Collector of District.
- (2) Department of the State Government.
- (3) Ministry/Department of the Government of India

Appendix 21: Application for seeking prior permission of the Central Government to accept foreign hospitality

[Form FC-2] [Rule 3(b)]

[Section 9, read with sections 10(d) and 11(1) of the Foreign Contribution (Regulation) Act, 1976]

Name in full (in block letters)

Date of birth

Name of father/husband

Present address

Permanent address

Passport particulars (if already in possession)

Status:

- Member of Legislature
- Office-bearers of a political party
- Judge of Supreme Court/High Court
- Government servant
- Employee of a company/corporation
- Any person or class of persons not specified in section 9

Names of countries/places to be visited with duration of stay

The countries and places where foreign hospitality is to be accepted

Duration and purpose of visit to the country(ies)/place(s) mentioned in Column 9 with specific dates

Particulars of host(s):—

If an individual, his personal particulars including name, present address, permanent address, nationality, profession

If an Organization/institution/Association/Trust/Foundation/Trade Union, etc., full particulars thereof including,—

- Full name and complete address
- Address of head Office/Principal Office
- Aims and objects

• Particulars of important office-bearers

Full particulars as in serials II(a) and (b) of the foreign source in case the actual source extending the hospitality is located in a country other than actually proposed to be visited.

Nature and duration of #foreign hospitality proposed to be accepted with specific dates and with specific details

Nature of connection/dealings with the host and/or foreign source extending the hospitality

Approximate expenditure to be incurred on hospitality

Any other information of significance which the applicant may like to furnish.

DECLARATION

I hereby declare that the above particulars furnished by me are true and correct.

Pla	aceSignature of the applicant			
Da	ate			
*	Delete if not applicable			
#	"Foreign Hospitality" means any offer, not being a purely casual one, made by a foreign			
	source for providing a person with the cost of travel to any foreign country or territory or			
	with free board, lodging, transport or medical treatment.			

Appendix 22: Application for seeking registration with the Central Government Under the Foreign Contribution (Regulation) Act, 1976 (Hereinafter referred to as the Act) for the acceptance of foreign contribution by an association having a definite cultural, economic, educational, religious or social programme

Form FC -8 [R	le 3A)
No	Date
То	
•	the Government of India, e Affairs, Lok Nayak Bhavan, Khan Market, 003
• • •	ation for registration under the Foreign Contribution (Regulation) Act r the acceptance of foreign contribution.
	on behalf of the Association named hereafter apply for registration of the er clause (a) of sub-section (1) of section 6 of the Act for the acceptance of ion.
i. Name of th Name: Address: Town/City District: State: Pin Code:	e Association and its complete postal address:
If the Association	n is a registered trust or Society please indicate its:—
	registration number:place of registration:date of registration:
(ertified copy of the registration certificate to be attached).
()	cultural (c) economic (d) educational (e) social. us Association, state whether (a) Hindu (b) Sikh (c) Muslim (d) Christian (E)
Please indicate-	-

- the main aim(s) and object(s) of the Association (enclose a copy of the Memorandum of Association and/or the Articles of Association, if applicable);
- the main object(s) and definite programme(s) for which the foreign contribution is to be accepted/utilized.

Please furnish the names and addresses of the members of the Executive Committee/Governing Council etc. of the Association, including the Chief Functionary in the following manner:

Sl. No.	Name	Name of Father/ Husband	•	Occupation		Relationship with other office- bearers, if any	Address
1	2	3	4	5	6	7	8

Please indicate whether any member of the Executive Committee/Governing Council etc. of the Association, including the Chief Functionary has in the discharge of his/her official functions—

- been convicted by any court of law;
- a prosecution for any offence pending against him/her;
- been found guilty of diversion or mis utilization of funds of the Association or any other association in the past.

Please indicate whether the applicant Associations is a brand/unit/associate of foreign based Organization or another associations already registered under the Act. If so, the name and address of the parent Organization.

Please indicate,—

Whether the Association was,—

- granted prior permission to receive foreign contribution under the Act in the past. If so, the number and date of the letter granting prior permission should be furnished;
- whether the account of the receipt and utilisation of the foreign contribution received above was sent to the Central Government in the prescribed form. If so, the date of submission of the accounts should be furnished;

whether the, —

 Association has received foreign contribution without the prior permission under Act in the past. If so, full particulars of the foreign contribution received along with complete address of the bank branch and bank account number in which deposited should be furnished; said violation has been condoned by the Central Government; Association has been prohibited from accepting foreign contribution under the Act.

• Please indicate whether the Association is functioning as editor, owner, printer or publisher of a publication required to be registered as "newspaper" under the Press and Registration of Books Act, 1867. If so, the details thereof.

Please indicate.—

Whether the Association ever applied for registration under the Foreign Contribution (Regulation) Act, 1976, if so, —

- the date of submission of application for registration;
- the number and date of the last communication, if any, received from the Ministry;
- whether registration was refused;
- whether application for registration is till pending

Whether the Association has close links with another association, or its unit or branch which has been —

- refused registration under the Act;
- prohibited from accepting foreign contribution

Please furnish,—

- details of the activities of the Association during the past three years,
- copies of the audited statement of accounts of the Association for the past three years.
- details of the area(s) of operation.

Please indicate whether the Association has been specified as an Organization of a political nature, not being a political party, under section 5 of the Act. If so, the details of the notification should be furnished

Please indicate,—

the name and address of the branch of the bank through which the foreign contribution shall be received;

Please specify the account number in the said branch of the bank.

9A. Whether a recommendation certificate from the competent authority is attached (Yes/No).

10. Any other information which the Association may like to furnish.

Yours faithfully,

Chief Functionary for and on behalf of the Association (Name of Association)

DECLARATION AND UNDERTAKING

The Association named hereinabove affirms that the information furnished above is correct and undertakes:—

to inform the Central Government (Ministry of Home Affairs) within thirty days, if any, change takes place in regard to the name of the Association, its address, its registration, its nature, its aims and objects with documentary evidence effecting the change;

to obtain prior permission for change of office bearer(s), if, at any point of time such change causes replacement of 50% or more of the office bearers as were mentioned in the application for registration under the Foreign Contribution (Regulation) Act, 1976 and undertakes further not to accept any foreign contributions except with prior permission till the permission to replace the office-bearer(s) has been granted;

not to change the bank or branch of the bank without prior permission of the Central Government. The reasons for change of bank or branch of the bank shall have to be relevant and justifiable; and

not to accept any foreign contribution unless it has obtained either the registration number, as applied for hereinabove, or prior permission of the Central Government under subsection (1A) of section 6 of the Foreign Contribution (Regulation) Act, 1976.

(Chief Functionary)

for and on behalf of the Association (Name of the Association)

Note:

The receipt of application for registration is not a commitment for grant of registration by the Central Government.

An incomplete application; i.e., without the required documents/details/explanations is likely to be rejected summarily;

In case the space provided against any column is insufficient separate sheets should be attached; and

Please use Capital letters.

[Certificate]

This is to certify that the	(Name of the Association) having its
registered office at (Address) has	been engaged in economic, educational,
cultural, religious, social activities in the	(District) of (State) for the last
years.	

It has undertaken commendable welfare activities in the area and has incurred substantial expenditure (excluding administrative expenditure) amounting to (Amount in rupees) during the last three years on its chosen (Economic, Education, Cultural, Religious and Social) field of activity.

The antecedents of the Organization have been verified and there is nothing adverse against them

Grant of registration to the aforesaid Association to accept foreign contribution under the Foreign Contribution (Regulation) Act, 1976 is recommended.

** (Recommending Authority)

(With Seal)

*	Strike out whatever is not applicable.
**	Any concerned
(1)	Collector of District
(2)	Department of the State Government
(3)	Ministry/Department of the Government of India]