Income Tax Compliance for Educational Institutes

Income tax compliance is crucial for educational institutes to uphold financial integrity and maintain tax-exempt status. This involves accurately reporting income, adhering to filing deadlines, and navigating specific tax regulations. In this guide, we'll explore key aspects of income tax compliance tailored to educational institutions, empowering them to manage their tax obligations effectively while focusing on their core mission of providing quality education.

By CA. Suman Chaudhury

-:Introduction:-

Section 10(23C) of the Income Tax Act:

Government Educational Institutions (Section 10(23C)(iiiab)):

Fully exempt if solely for educational purposes and government-financed.
No separate approvals needed.

Non-Government Educational Institutions (Section 10(23C)(iiiad)):

Fully exempt if solely for education and annual receipts ≤ Rs. 5 crore.
No separate approval or registration required.

Non-Government Educational Institutions (Section 10(23C)(vi)):

Exemption requires approval if annual receipts > Rs. 5 crore.
Solely educational and non-profit income needed.
Separate approval necessary, compliance with regulations expected.

Registration

- Organizations apply for fresh registration under section 10(23C) to the Principal Commissioner or Commissioner.

- Provisional registration, valid for three years, is granted upon successful application.

- The registration is valid for three years from the Assessment Year it's sought for.

- Renewal must be applied for:
  At least six months before the expiry of the validity period, or
  Within 6 months from the commencement of activities, whichever is earlier.

- Provisional registration needs renewal at the specified timelines.

- Renewed registration is valid for five years and must be renewed every five years thereafter.

All registered NGOs are required to apply for re-validation in Form No. 10A, within three months from 1st April 2021. Registration so re-validated shall be valid only for 5 years. The application for the renewal of registration (after five years) needs to be submitted at least six months prior to the expiry of validity period. The renewal application will be submitted in the Form No. 10AB.

-:Application Procedure:-

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

a) Log on to the E-filing portal of IT department vide **https://www.incometax.gov.in**

b) Go to “Income Tax Forms” under e-File tab.

c) Select the Form Name as “Form 10A” and relevant Assessment Year from the drop down list.

d) Select the option of “Prepare and Submit Online” in submission mode.

e) Fill in the details as required in the form and attach the required and applicable attachments.

f) Submit the form using digital signatures or EVC as required while return filing.

Applicability for Filling of Form 10B and 10BB

1. **Form No. 10B**:
   1. Applicable when:
      1. The total income of the educational institution exceeds rupees five crores during the previous year, without considering certain specified provisions.
      2. OR the educational institution has received any foreign contribution during the previous year.
      3. OR the educational institution has applied any part of its income outside India during the previous year.
2. **Form No. 10BB**:
   1. Applicable in other cases, meaning:
      1. When the total income of the educational institution does not exceed rupees five crores during the previous year without considering the specified provisions.
      2. AND the educational institution has not received any foreign contribution during the previous year.
      3. AND the educational institution has not applied any part of its income outside India during the previous year.

Filing Requirements under Form ITR-7

1. Eligibility: Educational institutions mandated to file returns under the Income Tax Act should use Form ITR-7.
2. Details: Provide institution's name, address, PAN, and type (school, college, etc.).
3. Trust Details: If applicable, furnish registration number, date, and registration details under sections 12A/12AA/12AB.
4. Income: Declare income sources including tuition fees, donations, grants, interest, and rentals.
5. Expenditure: Specify administrative expenses, salaries, maintenance, and depreciation.
6. Tax Benefits: Detail exemptions or deductions claimed under relevant sections.
7. Compliance: Provide details of compliance with section 10(23C) conditions if seeking exemption.
8. Audit Report: Obtain and submit audit report in Form 10BB and 10B from a qualified accountant.
9. Verification: Ensure the return is signed by an authorized person (principal, director, trustee).
10. Deadline: Adhere to filing deadlines prescribed by the Income Tax Department.
11. Electronic Filing: Submit Form ITR-7 electronically through the Income Tax Department's e-filing portal.
12. Acknowledgment: Retain acknowledgment generated upon successful submission for future reference.

By following these points, educational institutions can fulfill their filing requirements under Form ITR-7 efficiently and accurately.

Income Tax Compliances

- Registering for a PAN.
- Filing accurate and timely tax returns.
- Maintaining proper financial records.
- Paying taxes on time.
- Claiming eligible deductions and exemptions.
- Adhering to TDS provisions.
- Estimating and paying advance tax when required.
- Cooperating during audits and assessments.
- Complying with tax laws and regulations.
- Engaging in tax planning.
- E-filing tax returns.
- Seeking professional advice when needed.

Tax Exemptions and Benefits under Section 11

Aspect	Details
Who can claim the exemption?	Trusts or institutions registered under section 12AA of the Income Tax Act, 1961.
Incomes eligible for exemption:	- Income from property held by charitable trusts/societies utilized for charitable or religious purposes.
	- Voluntary contributions with a specific direction to form part of the trust's corpus.
Conditions for claiming exemption:	- Income should be received from property held under trust wholly or in part for charitable or religious purposes in India.
	- Income should be applied or accumulated for such purposes.
	- Income accumulated for charitable or religious purposes should not exceed 15% of total income.
	- Contributions referred in Section 12 of the Income Tax Act are deemed part of income.
	- Certain international welfare promotions are eligible for exemption.
	- Income credited to other trusts with specific directions does not qualify as application.
	- Provisions of section 40 and 40A apply in computing the income.

Tax Exemptions and Benefits under Section 11

Exemption on sale of Capital Asset:	- Capital gains arising from the sale of capital assets wholly or partly held under trust are exempt.
	- Exemption is based on the amount used to purchase new capital assets.
Exemption for income from business:	- Income from business can be exempt if incidental to trust's objectives; otherwise, it's taxable.
Depreciation and Exemption under Section 10:	- Depreciation is allowed unless the asset's acquisition was treated as application of income.
	- Trusts registered under section 12AA or 12A are exempt under section 10 except for specific clauses.

Overview of SECTION-12

Legal Framework

SECTION-12 of the NGO regulations pertains to the legal framework that governs the establishment and operational aspects of non-governmental organizations. It outlines the foundational requirements and procedures for setting up an NGO.

Compliance Standards

It establishes the compliance standards that NGOs need to meet in order to be recognized and operate lawfully within the legal framework. This includes the necessary documentation and reporting obligations.

Transparency Guidelines

Additionally, SECTION-12 lays out transparency guidelines, ensuring that NGOs maintain transparency in their functioning and financial operations, promoting accountability and trust.

Section 13 of Income Tax Act

Section 13 is crucial in ensuring that income derived from properties held for charitable or religious purposes is utilized effectively for the intended purposes and that organizations or trusts comply with the conditions prescribed under the Income Tax Act to maintain their tax-exempt status.

Consequences of Non-Compliance
1. Loss of Tax Exemption
- Loss of tax-exempt status for the educational institution.
2. Penalties and Fines
- Incurrence of penalties and fines from the Income Tax Department.
3. Scrutiny and Audits
- Triggering of scrutiny and audits, leading to potential penalties.
4. Legal Consequences and Registration Revocation
- Legal proceedings and possible revocation of registration.

HIGHLIGHTS of 12A , 80G , 10(23C) REGISTRATION OF NGO of Income Tax Act

Registration	Purpose	Benefit
12A Registration	Exemption on income for charitable or religious trusts/institutions	Income applied towards charitable or religious purposes is tax-exempt.
80G Registration	Enables donors to claim deductions for donations made to eligible charitable organizations.	Donors receive tax exemption certificates, allowing deductions on their taxable income.
10(23C) Registration	Exemption for institutions/funds serving charitable, religious, educational, or medical purposes.	Enjoy exemptions from income tax under Section 10(23C) of the Income Tax Act.

FORM-9A & 10 OF INCOME TAX ACT

Form 9A:

Form 9A: Employed by trusts when their income falls short of the 85% requirement for application towards charitable or religious purposes, typically due to reasons such as non-receipt of income. By filing Form 9A, the trust declares its inability to utilize the income, and the shortfall will be deemed to have been applied for charitable or religious purposes.

Form 10:

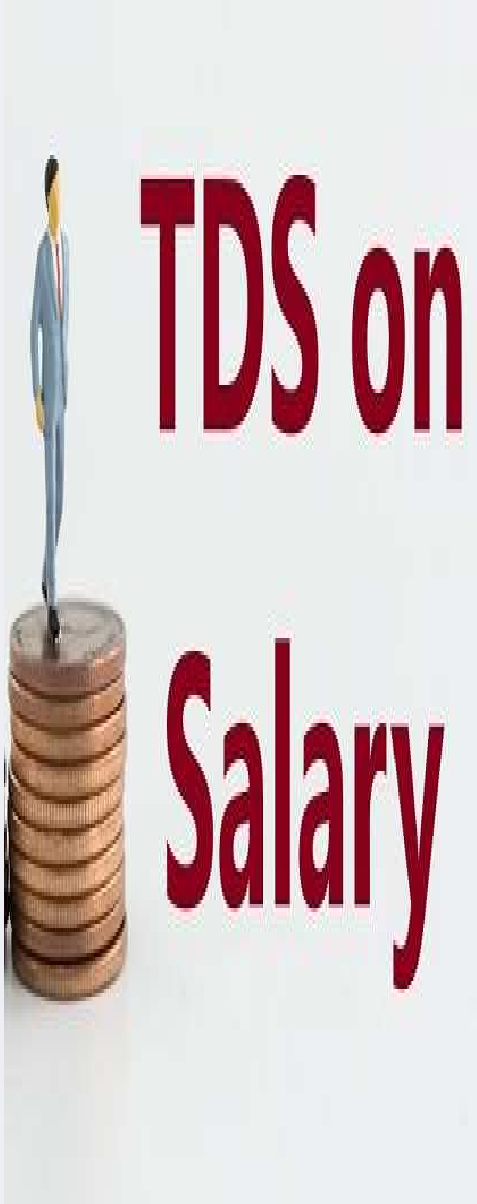
Form 10: Used by trusts to accumulate 85% of their income for up to five years. This form must be submitted electronically to the Assessing Officer by the due date specified under Section 139(1) of the Income Tax Act. The accumulated amount can be utilized for specified purposes mentioned in the form within the subsequent five years.

In summary, Form 10 facilitates voluntary accumulation of income for future use by trusts, while Form 9A addresses situations where the trust cannot meet the 85% application requirement due to reasons beyond its control.

Recent Amendment, The Finance Act, 2023 amended Section 10(23C) and Section 11, mandating trusts and institutions to submit Form No. 9A (for deemed application) and Form No. 10 (for secondary accumulation) two months before the due date for filing the return of income.

Section 192 of the Indian Income Tax Act

Aspect	Description
Applicability	Applies to employers who deduct tax at source from salaries paid to employees.
Rate of Tax Deduction	Specifies rates for tax deduction from salaries based on income tax slab rates.
Calculation of Tax	Employers calculate tax liability of employees based on total income including salary, allowances, perquisites, and other income.
Frequency of Deduction	Tax deducted each month at the time of salary payment throughout the financial year.
Filing of TDS Returns	Employers file TDS returns quarterly with details of tax deducted at source from salaries.
Issuance of Form 16	Employers provide Form 16 to employees, detailing salary, tax deducted at source, and other relevant information for the financial year.
Compliance and Penalties	Non-compliance may lead to penalties and interest charges under the Income Tax Act.



Income Tax Slab Rate for Assessment Year -2024-25

Income tax slab rates for FY 2023-24/ AY 2024-25			
Old Regime			
Slabs	**Individuals (Age < 60 years)**	**Resident Senior Citizens (≥60 but <80 years)**	**Resident Super Senior Citizens (80 years and above)**
Up to Rs 2,50,000	Nil	Nil	Nil
Rs 2,50,001 to Rs 3,00,000	5%	Nil	Nil
Rs 3,00,001 to Rs 5,00,000	5%	5%	Nil
Rs 5,00,001 to Rs 10,00,000	20%	20%	20%
Above Rs 10,00,000	30%	30%	30%
New Regime			
Slabs		**Income Tax Rates**	
Up to Rs 3,00,000		Nil	
Rs 3,00,001 to Rs 6,00,000		5% (Tax rebate u/s 87A)	
Rs 6,00,001 to Rs 900,000		10% (Tax rebate u/s 87A up to Rs 7 lakh)	
Rs 9,00,001 to Rs 12,00,000		15%	
Rs 12,00,001 to Rs 1500,000		20%	
Above Rs 15,00,000		30%	

Section 194C of the Indian Income Tax Act

Aspect	Description
Applicability	Applies to any person responsible for paying any sum to a resident contractor for carrying out any work (including supply of labor) or providing any services.
Rate of Tax Deduction	The tax deduction rate under Section 194C varies depending on the nature of the payment: - 1% for payments made to an individual or Hindu Undivided Family (HUF) contractor. - 2% for payments made to any other contractor (e.g., partnership firm or company).
Threshold Limit	No TDS is required if the total amount paid or credited to the contractor during a financial year does not exceed ₹30,000 in a single payment & Rs. 1 lakh in aggregate.
Mode of Payment	Tax is required to be deducted at the time of credit of the sum to the contractor's account or at the time of payment, whichever is earlier.
Filing of TDS Returns	The person responsible for deducting tax at source is required to file TDS returns and issue TDS certificates (Form 16A) to the contractor.
Exemptions	Certain payments such as payments for goods, transport, advertising, and broadcasting are exempt from TDS under specific conditions mentioned in the section.
Compliance and Penalties	Non-compliance with the provisions of Section 194C may attract penalties and interest charges as per the Income Tax Act.

Section 194J of the Indian Income Tax Act

Aspect	Description
Applicability	Section 194J applies to any person (other than an individual or Hindu Undivided Family not liable to audit under Section 44AB) responsible for paying professional or technical fees.
Rate of Tax Deduction	The tax deduction rate under Section 194J is 10%.
Threshold Limit	No TDS is required if the total fees paid or credited during a financial year does not exceed ₹30,000.
Mode of Payment	Tax is required to be deducted at the time of credit of fees to the account of the payee or at the time of payment, whichever is earlier.
Filing of TDS Returns	The person responsible for deducting tax at source is required to file TDS returns and issue TDS certificates (Form 16A) to the payee.
Exemptions	Certain categories of payees, such as the government, local authorities, and specified financial institutions, may be exempt from TDS under specific conditions.
Compliance and Penalties	Non-compliance with the provisions of Section 194J may attract penalties and interest charges as per the Income Tax Act.

Section 194I of the Indian Income Tax Act

Aspect	Description
Applicability	Section 194I applies to any person (other than an individual or Hindu Undivided Family not liable to audit under Section 44AB) responsible for paying rent.
Rate of Tax Deduction	The tax deduction rate under Section 194I is as follows: - 10% for rent of land, building, or furniture. - 2% for rent of machinery or equipment.
Threshold Limit	No TDS is required if the total rent paid or credited during a financial year does not exceed ₹2,40,000.
Mode of Payment	Tax is required to be deducted at the time of credit of rent to the account of the payee or at the time of payment, whichever is earlier.
Filing of TDS Returns	The person responsible for deducting tax at source is required to file TDS returns and issue TDS certificates (Form 16A) to the payee.
Exemptions	Certain categories of payees, such as the government, local authorities, and specified financial institutions, may be exempt from TDS under specific conditions.
Compliance and Penalties	Non-compliance with the provisions of Section 194I may attract penalties and interest charges as per the Income Tax Act.

Section 195 of the Indian Income Tax Act

Aspect	Description
Applicability	Section 195 applies to any person responsible for making a payment to a non-resident, which is chargeable to tax in India.
Rate of Tax Deduction	The tax deduction rate under Section 195 varies depending on the nature of the payment and applicable provisions of the Income Tax Act.
Threshold Limit	No threshold limit provided.
Mode of Payment	Tax is required to be deducted at the time of credit of the payment to the account of the non-resident or at the time of payment, whichever is earlier.
Filing of TDS Returns	The person responsible for deducting tax at source is required to file TDS returns and issue TDS certificates to the non-resident payee.
Exemptions	Certain payments made to non-residents may be exempt from TDS under specific conditions or as per Double Taxation Avoidance Agreements (DTAA).
Compliance and Penalties	Non-compliance with the provisions of Section 195 may attract penalties and interest charges as per the Income Tax Act.

Section 197 of the Indian Income Tax Act

Aspect	Description
Applicability	Section 197 applies to any person responsible for deducting tax at source (TDS) under various provisions of the Income Tax Act, 1961.
Purpose	Allows a taxpayer to apply to the Assessing Officer for a certificate for lower deduction or no deduction of TDS if they believe that the tax deductible is lower than the amount that would otherwise be deducted under the relevant provisions.
Procedure	Taxpayer submits an application to the Assessing Officer specifying the reasons and providing supporting documents justifying the lower or no deduction of TDS.
Assessment by AO	The Assessing Officer examines the application and supporting documents to determine whether a lower rate or no TDS is justified based on the taxpayer's circumstances.
Issuance of Certificate	If satisfied, the Assessing Officer issues a certificate specifying the rate at which TDS should be deducted or granting exemption from TDS, as applicable.
Validity Period	The certificate is valid for the financial year or years specified therein, subject to certain conditions mentioned in the certificate.
Compliance and Penalties	Non-compliance with the provisions of Section 197 may attract penalties and interest charges as per the Income Tax Act.

Section 206AA of the Indian Income Tax Act

Aspect	Description
Applicability	Section 206AA applies to any person who is required to deduct tax at source (TDS) or collect tax at source (TCS) under the provisions of the Income Tax Act, 1961.
Requirement of TAN	Any person responsible for deducting or collecting tax at source must obtain a Tax Deduction and Collection Account Number (TAN) before making any such deductions.
Rate of Tax Deduction	If the deductee (payee) fails to furnish their Permanent Account Number (PAN) to the deductor, tax is required to be deducted at the higher of the following rates: - At the rate specified in the relevant provisions of the Act. - At the rate of 20%.
Exemption	Section 206AA does not apply to non-residents or foreign companies, subject to certain conditions.
Consequences of Non-Compliance	Failure to comply with the provisions of Section 206AA may lead to higher tax deduction rates and potential penal consequences under the Income Tax Act.

Non-compliance with TDS

Section	Nature of Default	Penalty/Prosecution
234E	Failure to file TDS/TCS quarterly statements	Fee of ₹200 per day of default, not exceeding the amount of tax deductible or collectible.
271C	Failure to deduct the whole or any part of tax at source	Penalty equal to the amount of tax that was failed to be deducted.
271CA	Failure to collect the whole or any part of tax at source (TCS)	Penalty equal to the amount of tax that was failed to be collected.
271H(1)(a)	Failure to submit quarterly return	Penalty ranging from ₹10,000 to ₹1,00,000.
271H(1)(b)	Furnishing quarterly returns with incorrect information	No penalty if revised returns are filed within one year from the due date.
272B	Failure to comply with provisions of Section 139A for quoting PAN	Penalty of ₹10,000.
272BB	Failure to obtain TAN	Penalty of ₹10,000.
272A(2)	- Failure to issue TDS certificates - Failure to deliver declaration in Form 15G/15H - Failure to file quarterly statements (only till 30-06-2012)	Penalty of ₹100 for every day during which the failure continues, not exceeding the amount of tax deductible.
276B	Failure to pay Tax Deducted at Source (TDS)	Prosecution punishable with rigorous imprisonment for a minimum of 3 months to a maximum of 7 years, along with a fine.
276BB	Failure to pay Tax Collected at Source (TCS)	Prosecution punishable with rigorous imprisonment for a minimum of 3 months to a maximum of 7 years, along with a fine.

Thank You!

CA. Suman Chaudhury

9831066807/ 8334006697
Email: chaudhuri.suman.ca@gmail.com