

**FCRA PROVISIONS
GOVERNING CHARITABLE
TRUSTS**

PRESENTED BY

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PROVISIONS AT A GLANCE

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DEFINITION

- **“FOREIGN CONTRIBUTION”**

Means the donation, delivery or transfer, made by any foreign source of :-

a) currency, whether Indian or foreign

INCLUSIONS :

a) Interest accrued on foreign contribution.

b) Any other income derived from foreign contribution.

EXCLUSIONS :

a) Amount received by way of fees or towards cost in lieu of goods & service rendered in the ordinary course of business.

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DEFINITION

IMPORTANT INDICATORS :

- a) Source is important and not the currency.
- b) Contribution from NRI through normal banking channels are not foreign contribution. However it is advisable to obtain the passport details to establish that the person sending the remittance is an Indian citizen.
- c) Foreign citizen making donation in Indian currency is covered under foreign sources.

REGISTRATION AND PRIOR PERMISSION

- The FCRA Renewal/Registration are now valid only for 5 years from the date of Registration/Renewal.
- New Registrations can be done by filing online form in FC-3A with the Ministry of Home Affairs. (www.fcraonline.nic.in).
- Prior permission can be applied online in Form FC-3B for those intending to receive Foreign Contribution without Permanent Registration.
- The Fees for registration is Rs. 5000 and Rs. 3000.00 for Prior permission.

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REGISTRATION AND PRIOR PERMISSION

PRE-REQUISITIES FOR REGISTRATION :

- The Organization should be in existence for at least 3 years.
- The Organization should be 12A Registered.
- The Organization should have expended a minimum amount of Rupees 10 Lakhs on aims and objects during the previous years.
- The Organization should not have been prosecuted under any of the provisions of any Act.

RENEWAL OF REGISTRATION

- a) Application for renewal is to be made online in Form FC-3C latest by six months before the date of expiry of the certificate.
- b) The person implementing multi year projects shall apply for renewal latest by 12 months before the date of expiry of the certificate (Social work organizations).
- c) If an organization fails to renew within the due date, the department may condone the delay. However such delay should not be more than 4 months after the expiry of the original certificate. (circular dated 22.11.2016)

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RENEWAL OF REGISTRATION

- d) The Central Govt. may renew the certificate within 90 days or reject the application communicating the reasons thereof.
- e) In case of rejection the aggrieved NGO has a right to file an appeal within 60 days from the date of such order or may apply for revision of order.
- f) In case an organization fails to apply for renewal, the registration of the organization shall be deemed to be cancelled.
- g) The Fees for renewal of registration is Rs. 1500.00

BANK ACCOUNTS

- a) All foreign contribution should be received through one designated bank account.
- b) FCRA, 2010 has permitted the use of multiple bank accounts only for utilization of Foreign Contribution.
- c) No funds can be transferred between FC account and Local account at any given point of time.

BOOKS OF ACCOUNTS

- a) Rule 11 : A separate set of Books of Accounts and records shall be maintained, exclusively for foreign contribution received & utilized.

- b) Books of accounts should be preserved for a period of six years [As per Rule 17 (7)].

SUBMISSION OF RETURNS

Yearly Return in form FC-4 (earlier FC-3/FC-6) accompanied by Receipts and Payment Accounts, Income and Expenditure Account and Balance Sheet within nine months i.e. on or before 31st December (It has to be filed online and no hard copies have to be submitted).

It has to accompanied with a statement of account from the bank (Designated) through which FC money is received, duly certified by the officer of the Bank.

Nil return should be furnished even if there are no receipts during the financial year.

INTIMATIONS

- FC-6A – For Change in Name/Address
- FC-6C – For Change in Designated Bank Account
- FC-6D – For Opening Additional utilization bank account (To be given within 15 days from the date of opening).
- FC-6E – For Change in Key members of the association.
- Other intimations : Quarterly intimation has to be given within 15 days from the end of the quarter for all Foreign Contribution received by the organization during the quarter.

RESTRICTIONS

- Administrative Expenses should not be more than 50% of the total foreign contribution received during the financial year.
- Speculative Purpose : Foreign Contribution of income arising there from shall not be used for speculative purpose – Investments in risk bearing instruments or assets are prohibited.

CANCELLATION OF REGISTRATION

Sec. 14(1) : FCRA certificate can be cancelled if :

- a) The holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or
- b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or
- c) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

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CANCELLATION OF REGISTRATION

- d) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate.
- e) No order of cancellation shall be made unless the person concerned has been given a reasonable opportunity of being heard.
- f) Once the certificate is cancelled, eligibility of registration or prior permission only after a period of three years from the date of cancellation.

SUSPENSION OF CERTIFICATE

- a) The new act allows the power to suspend the registration for a period up to 180 days.
- b) Before suspending any organization the department shall record the reason in writing. **However provision of opportunity of being heard is not provided.**

CUSTODY OF FUNDS AND ASSETS IN THE EVENT OF CANCELLATION

- a) In case of available bank balances, the respective banking authority will become the custodian till the Central Government issues further directions.
- b) If funds have been transferred to another NGO after cancellation, then the funds in the bank account of such NGO will also go to the custody of the banking authority.

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CUSTODY OF FUNDS AND ASSETS IN THE EVENT OF CANCELLATION

- c) All other assets of the organization shall go to the interim custody of the District Magistrate or any other authority which the Central Government may direct and for such period as may be prescribed.
- d) May also sell the assets if funds are not available for running the activity.

PENALTIES

OFFENCE	PENALTY
Transferring Foreign Funds to Unregistered Organizations	Rs. 100,000.00 or 10% of the amount transferred which ever is higher
Administrative Expenses in excess of 50%	Rs. 100,000.00 or 5% of the Excess spent which ever is higher
Foreign Contribution received without registration or Prior Permission	Rs. 100,000.00 or 10% of the amount received which ever is higher
Foreign Contribution received in an account other than the designated Bank Account	Rs. 100,000.00 or 5% of the amount received which ever is higher

PENALTIES

OFFENCE	PENALTY
Local Funds deposited in FC Bank Account	Rs. 100,000.00 or 2% of the amount transferred which ever is higher
If the organization fails to intimate the FCRA Department regarding the source of Foreign Contribution Received	Rs. 100,000.00 or 5% of the amount received which ever is higher
If the Organization fails to maintain books of account and records regarding Foreign Contribution Received	Rs. 100,000.00 or 5% of the amount received which ever is higher

Thank you

