Changes Proposed in Budget 2023 –Charitable Trust and Institutions:

The exemption to these trusts or institutions is available under the two regimes:

(i) First Regime for any fund or institution or trust or any university or other educational institution or any hospital or other medical institution and

(ii) Second Regime for the trusts registered under section 12AA/12AB of the Act.

Some of the important changes proposed in the Budgets are as follows:

1. Treatment of donation to other trusts:

At present, the income of trusts/ institutions is exempt if they apply at least 85% of their income towards charitable/ religious purposes either by themselves or by donating to another trust/ institution with similar objectives, other than by way of the corpus. Further, trusts/ institutions are allowed to accumulate 15 % of their income each year.

To curb the practice that at present multiple trusts/ institutions are formed to accumulate 15% at each stage, it is proposed to restrict the exemption to 85% of the total amount donated to another trust/ institution, under both the regimes.

2. Deemed exit tax levied in the event of failure to register:

Instances were noticed, where the trusts/ institutions under both the regime exit by not applying for registration after the expiry of provisional/ regular registration or re-registration from old provisions to new provisions, resulting in an easy route of exit in a way to escape the levy of tax.

To avoid such consequences, it is proposed that, if the trust/ institution fails to make an application for registration or approval it shall be deemed to have been converted into a form not eligible for registration or approval, on the last date for making such application, thereby, invoking the provisions of exit tax in such event.

3. Streamlining the provisions for registration

To rationalize the provisions and eliminate the undue hardships, it is proposed that the application for provisional registration shall be made before the commencement of activities and not one month before the commencement of the Previous year as introduced in the finance act 2021.

4. Mandatory filing of return of income within the due date:

To avoid unintended consequences, it is clarified that for claiming the exemption, the trust/ institution must mandatorily file the return of income ("RoI") within the due date specified under the Act. Thus, the option of filing an updated return of income within two years from the end of the Assessment year shall not be available.

5. Time limit for furnishing the form for accumulation/ deemed application of income:

It is proposed that to claim the benefit of accumulation/ setting aside of income or deemed application of income, the requisite statement in the prescribed form shall be furnished at least two months prior to the filing of the Return of Income. This will ensure streamlining of the provisions, as the auditor's report which is to be furnished one month prior to the filing of the Return of Income inter alia includes reporting the details of the aforementioned forms.

6. Depositing back of corpus and repayment of loans or borrowings:

The Finance Act, 2021 clarified that under both the regimes, the application of income out of corpus or out of loans/ borrowings shall be treated as application not in the year of actual expenditure but in the year of reinvestment/ redeposit to such corpus or in the year of repayment of such loan/ borrowing respectively.

It is also clarified that if trusts/ institutions have already claimed the exemption in the year of actual application, the exemption will not be available again in the year of reinvestment/ redeposit to the corpus or repayment of loan/ borrowing.

It is also proposed that the exemption out of corpus or loan is available only if the reinvestment/ redeposit to corpus or repayment of loan/ borrowing is made within 5 years of utilizing the funds from the corpus or borrowings and after satisfaction of certain conditions.

7. Bringing defective applications within the ambit of specified violation:

At present applications are automatically approved by Centralized Processing Centre resulted in granting of registrations/ approvals despite the applications being defective (viz false or incorrect or incomplete information). To avoid disruption, it is proposed to include such instances within the scope of specified violation to vigilant the applicants about the possibility of having their registration or approval cancelled