

Provisions for FCRA and Income Tax



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To provide a knowledge about Foreign contribution, the manner of accounting, receipt and utilization, FCRA rules and regulations, and Income Tax compliances.

FCRA

What is Foreign Contribution

What is not Foreign Contribution

How to Receive FC and How to Utilize FC

3 Types of Accounts - Do's and Don'ts

45Days Intimation

Books of accounts

Opening balance – FC income – Admin Expense – Program Expense – Closing balance

Important amendment

Income Tax

Records to be maintained

Deemed expense/ Accumulated funds/ Application of funds

TDS compliance

ESI/PF

FOREIGN CONTRIBUTION

WHAT IS FOREIGN CONTRIBUTION ?

“ **Foreign Contribution**” is defined by FCRA as a donation, delivery or transfer made by a **foreign source** either directly or through one or more persons, shall also be deemed to be foreign contribution.

Any Income or Interest generated from such contributions is also treated as a foreign contribution under FCRA.

What is a foreign source?

“Foreign source” includes:-

- Foreign company
- Citizen of foreign country
- Government of foreign country
- Any international agency of foreign Government
- A trade union in any foreign country
- Foreign Trust or Foreign Foundation
- Society, Club, Association of Individuals formed outside India.

A foreign source includes an Indian company if more than 50% of its share capital is held by persons covered under foreign source



**Foreign
company**



**International agency of
foreign government**



**Foreign
Citizen**



**Government of
foreign country**



RECEIPT OF FOREIGN
CONTRIBUTION

**TRANSACTIONS EXCLUDED FROM
FOREIGN CONTRIBUTION**

Transactions Excluded from foreign contribution

- ✓ Movement of foreign funds in normal course of trade, commerce and business is outside the purview of FCRA 2010
- ✓ Contribution by Indian citizen



Movement of foreign funds in normal course of business



Contribution by Indian citizen



**CAN FOREIGN CONTRIBUTION BE
RECEIVED IN RUPEES**

Can foreign contribution be received in rupees?

- ✓ Yes Any donation, delivery or transfer received from a **'foreign source'** whether in rupees or in foreign currency is construed as 'foreign contribution' under FCRA, 2010.
- ✓ Such transactions even in rupees term are considered as foreign contribution.



**FOREIGN
CURRENCY**

FOREIGN CONTRIBUTION

**INDIAN
RUPEE**



**WHETHER DONATION GIVEN BY CITIZENS
OF INDIA STAYING ABROAD IS TREATED AS
'FOREIGN CONTRIBUTION'**

Donation given by Citizen of India staying abroad is NOT treated as 'foreign contribution'

- ✓ Contributions made by a citizen of India living in another country, **from his personal savings**, through the normal banking channels, **is not treated as foreign contribution.**
- ✓ However, while accepting any donations from such NRI, it is advisable to obtain his passport details to ascertain that he/she is actually an Indian citizen.

Whether donation given by Citizens of India staying abroad is treated as 'foreign contribution'?

NO

If you are a dual citizen, you are considered to be a foreign citizen under FCRA.

**WHETHER DONATION GIVEN BY AN
INDIVIDUAL OF INDIAN ORIGIN AND
HAVING FOREIGN NATIONALITY IS
TREATED AS 'FOREIGN CONTRIBUTION'**

Donation given by an individual of Indian origin and having foreign nationality is treated as 'foreign contribution'

Donation from an Indian origin person who has acquired foreign citizenship is treated as foreign contribution

Whether donation given by an individual of Indian origin and having foreign nationality is treated as 'foreign contribution'?

YES

Q1. HOW TO RECEIVE FC ?

Q2. HOW TO UTILIZE FC ?

3 types of accounts

ACCOUNT	SBI NEW DELHI	ANOTHER FCRA ACCOUNT	UTILISATION ACCOUNT
RECEIPT OF FOREIGN CONTRIBUTION	YES	NO	NO
TRANSFER	No funds should be transferred	Can get money transferred from SBI New Delhi Account	Can get money transferred from SBI New Delhi Account and another FCRA Account
FD Interest	Yes only New Delhi A/c	YES	YES
Rental income out of FC	NO	YES	YES
Sale of FC asset	NO	YES	YES

**RULES FOR ACCEPTANCE
AND UTILISATION OF
FOREIGN CONTRIBUTION**

Rules for acceptance of FC:

- ✓ FC received should be deposited only in the “ **Designated FC bank account** ”. Designated Bank Account to be opened only at **SBI New Delhi Branch**.
- ✓ FC amount **should not be received** in any other Bank account like Another FCRA account, utilisation account and local account

- ✓ Association should keep record of all FC clearly indicating the names of donors, their locations (complete address) and the purpose for which it has been received
- ✓ No Excuse for people deposited money without your knowledge.
- ✓ FC can be treated as corpus donation only if it is supported by written consent of the donor.

Bank Deposit



**FC can be treated as corpus donation
Only if written consent is provided**

FC received should be deposited in FC bank account



Association should keep record of all FC



AMENDMENT

New Amendment regarding placing the details of Foreign Contribution received on its official website or on the website in a quarter of the Financial year as specified by the Central Government **within fifteen days** indicating the details of donors, amount received and date of receipt has been **omitted**.

New Amendment



**Placing quarterly
information
in the official website
within 15 days is
omitted**

New Amendment regarding Bank Account and Intimation of Change of designated bank account, name, address, aims, objectives or key members of the association

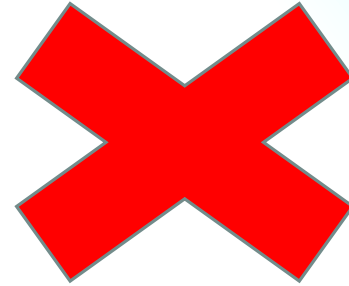
The person may open one or more accounts in one or more banks for the purpose of utilising the foreign contribution after it has been received and intimation of changes in above cases should be in electronic form in FORM FC-6A, 6B, 6C and 6D shall be furnished to the Secretary, Ministry of Home Affairs, New Delhi within **FORTY FIVE DAYS(earlier FIFTEEN DAYS)**

How to get statements from SBI New Delhi Branch?

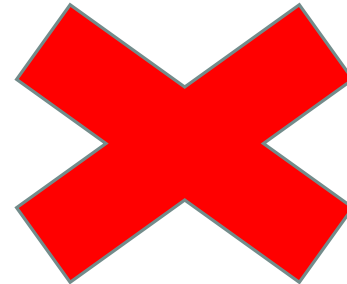
- 1. Internet Banking**
- 2. Getting statements from mail**
- 3. Contact any of the local branch**

Who can be on your Board?

Foreigners



Government Servants



Indians



✓ Foreign contribution cannot be deposited into the bank account being used for domestic funds.

✓ Transfer of funds from

1. Designated FC SBI account

2. Another FCRA account

3. Utilisation account to LOCAL account is

PROHIBITED

✓ Transfer of funds from Local account to any other account mentioned above is **PROHIBITED.**

No Cash Deposit in

1. FCRA account
2. Another FCRA account
3. Utilisation account

Local Donations should **not** be deposited or received in

1. SBI New Delhi Account
2. Another FCRA account
3. Utilization account.

Avoid Cash transactions and
avoid taking cheques in the
name of Executive committee
members and trustees.

Cash Expenses:

- FCRA limit is Rs.20000 per day
- Income Tax limit is Rs.10000 per day

FOLLOW INCOME TAX

Personal Expenses
should **not** be included

When your spouse/ any relative accompanies on your travel, ensure that you have a **documentation** to prove purpose of travel and get it approved from the other members.

Many of you have projects in remote locations. Since you have not opened utilization account in that location, you are either transferring funds to one of your staffs/ board members or withdrawing cash and spending.

Consequences:

1. Expenditure made in cash is against both FC and Income Tax rules.
2. Transfer to Staffs/ Board members will be questioned by FCRA department.
3. At the time of next renewal, FCRA department will question and due to this reason, FCRA may not be renewed.
4. Persons who have received the transfer and/or withdrawn cash will be subject to enquiry.

BOOKS OF ACCOUNTS

Books of Accounts

Maintain separate books of Accounts

Separate books of accounts and records shall be maintained by every person who has been granted registration exclusively for foreign contribution received and utilized.

Methods of Accounting

Any method of accounting may be followed but the receipt of FC fund should be reported on Cash basis only.

Preservation of Accounting Records

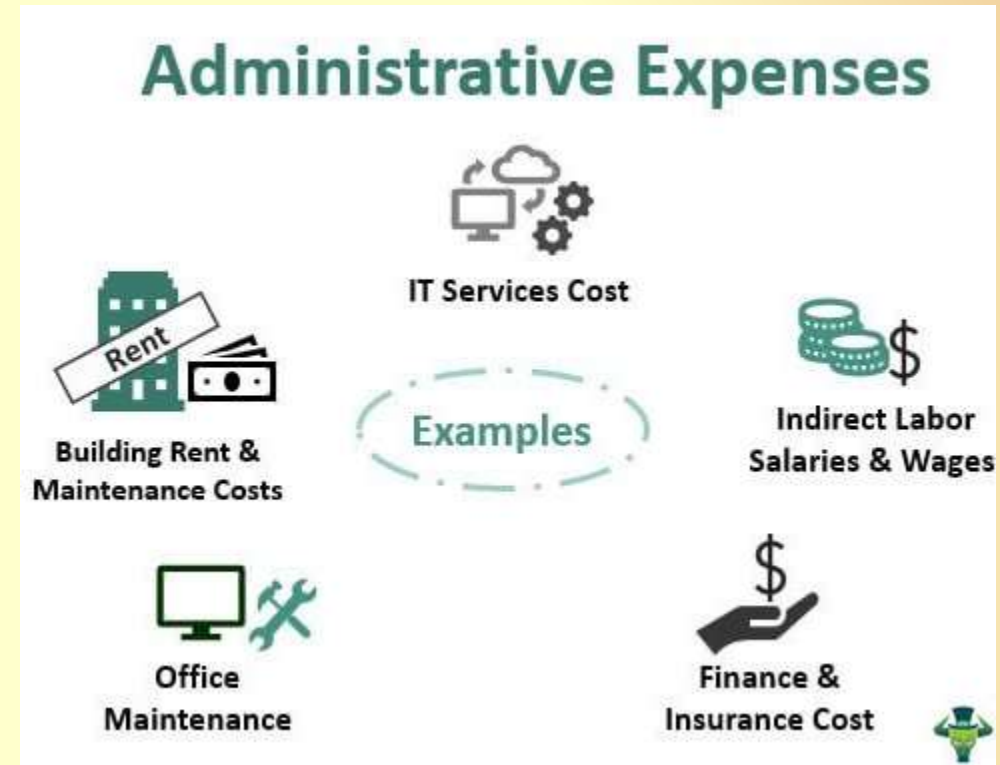
Rule 17 (7) provides that accounting record shall be preserved for preceding **6 Financial years**

CLASSIFICATION OF EXPENSES

Administrative Expenses

Administrative Expenditure should not exceed 20% of the total utilization of FC fund spent in that year.

If it exceeds more than 20%, then the approval of the FCRA Department is required.



Administrative expenses includes

- ❖ Salaries to Trustees
- ❖ Travel of Board / Trustees.
- ❖ Telephone Charges used at administrative office
- ❖ Legal and Professional charges
- ❖ Rent & Repair of premises used for administration
- ❖ Printing & Stationery used at administrative office
- ❖ Postage & Telegram used at administrative office
- ❖ Audit Fee
- ❖ Board meeting Expenses used at administrative office
- ❖ Electricity Charges used for administrative office

However it excludes expenditure directly towards activity

PROGRAM EXPENSES

- ✓ Expenses incurred directly for program or project activities.
- ✓ Other than Administrative Expenses.

FORM FC- 4

FORM FC – 4

Details of utilisation of foreign contribution:

(a) Details of activities/projects for which foreign contribution has been received and utilised (in rupees)

Sl.NO	Name of project/Activity	Address / Location	Previous balance		Receipt during the year		Utilised		Balance	
			In cash	In kind	In cash	In kind	In cash	In kind	In cash	In kind
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Sl. NO	Purpose	Previous Balance	Receipt during the year			Utilised	Balance
			As first recipient	As second/ subsequent recipient	Total		
		In cash/Bank	In cash/Bank	In cash/Bank	(4+5)	In cash/Bank	In cash/Bank
1	2	3	4	5	6	10	12
	Administrative Expenses	XXX	XXX	XXX	XXX	XXX	XXX
	Project Expenses (Name of the project)	XXXX	XXXX	XXXX	XXX	XXX	XXXX
	TOTAL						



TREATMENT OF FIXED ASSETS

Creation of Fixed Assets

- ❑ Any asset purchased out of FC fund should be recorded as FC asset
- ❑ FC asset will continue to remain an FC asset irrespective of time factor or closure of the project

Sale of fixed assets

- Sale proceed of FC asset should be shown as foreign receipt
- The sale proceed of FC asset should be deposited in designated bank account
- You cannot transfer this asset to any other organization.

**CHANGES APPLICABLE
FOR NGOs**

Books of account and other documents
to be kept and maintained

(Section 12A(1)(b)(i), Rule 17AA)

Books of accounts include the following, namely: -

- (i) cash book**
- (ii) ledger**
- (iii) journal**
- (iv) copies of bills numbered**
- (v) original bills**
- (vi) any other book that may be required to be maintained in order to give a true and fair view**

Other documents for maintaining (Rule 17AA)


- ✓ record of all the projects run by the association containing details of the donor, their address and objectives.
- ✓ record of voluntary contribution containing details of name of the donor, address, permanent account number(if available) and Aadhaar number(if available).

ANONYMOUS DONATIONS RECEIVED BY WHOLLY CHARITABLE ORGANISATIONS IS TAXABLE

- ✓ **record of Income from property held under trust.**
- ✓ **record of deemed application of income (To cover the shortfall in application of 85%) containing details of the reason for availing such deemed application.**
- ✓ **record of income accumulated or set apart as per the provisions which has not been applied or deemed to be applied containing details of the purpose for which such income has been accumulated.**
- ✓ **record of money invested or deposited in the forms and modes specified.**
- ✓ **record of loans and borrowings.**

Consequences:

If you do not have any of the above, you are **not eligible** for Income Tax Exemptions and you will pay tax at **Maximum rate** on the Gross Income.

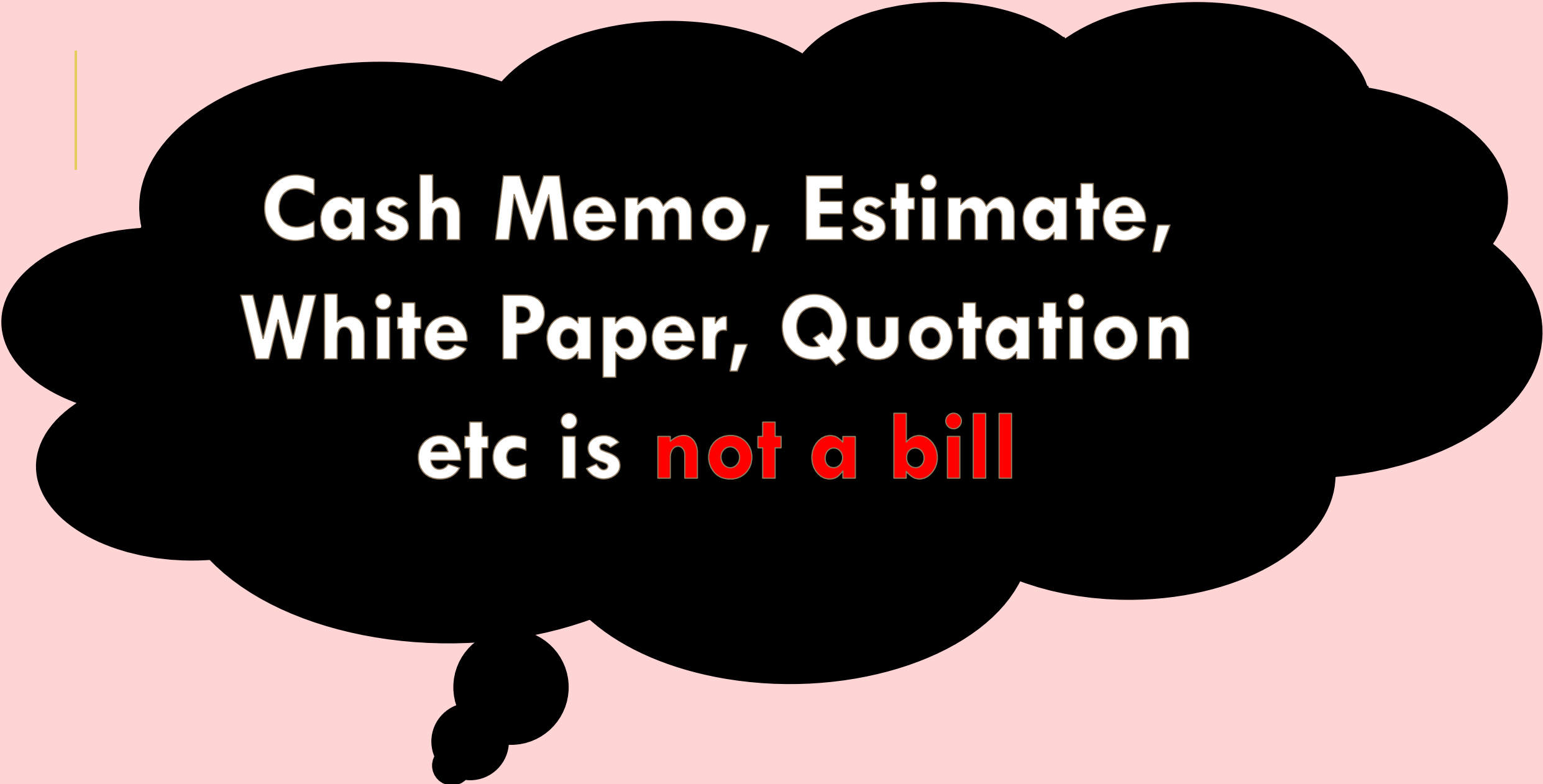


What is a Bill

HARDWARE BILL

XYZ		Invoice No. 66	Dated 1-OCT-2020
Buyer ABC Trust		Supplier's Ref. 66	Other Reference(s)
SI No.		Description of Goods	Amount
1	100	<i>Cement</i>	60,000.00
2	270 Mt	<i>Steel</i>	70,000.00
3	200	<i>Steel Pipes</i>	60,000.00
		Add:	1,90,000.00
		GST	19,000.00
TOTAL			" 2,09,000.00
Amount Chargeable (in words) INR Two Lakh Nine Thousand Only			<i>E. & O.E</i> for XYZ Printers
Customer's Seal and Signature			Authorised Signatory

This is a Computer Generated Invoice



**Cash Memo, Estimate,
White Paper, Quotation
etc is **not a bill****

Application of Income to be allowed
only on payment basis

Trust or institution are required to apply 85% of their income towards their activities. Any payment shall be considered as application only if money goes out of the bank or cash.

Changes in period of utilisation of accumulation(Form 10)

If the accumulated funds are not entirely utilised up to the year of accumulation, then the funds remaining unutilised becomes taxable(flat 30% tax rate) in such last year(the year in which the period of accumulation lapses).

This change is effective from FY22–23.

VERY IMPORTANT RULES
FOR ALL THE NGOs



CASH EXPENSES

IF YOU DO THE FOLLOWING
YOU WILL PAY TAX ON THE
EXPENDITURE INCURRED

If you spend more than **Rs.10,000/-** in cash on a single item of expenditure in a single day.



TDS COMPLIANCE

**IF YOU DO NOT DEDUCT TDS THEN YOU HAVE TO
PAY 30% TAX ON THE EXPENDITURE DISALLOWED
UNDER THE ACT.**

***Payment to Contractors**

Who is a contractor?

A Contractor is a person who does something according to your instruction.

Examples:-

(a) Printer

(b) Building Contractor

(c) Caterer

(d) Payment to TV / Media

(e) Any Maintenance Contractor

(i) Building

(ii) Lift

(iii) Computer

(f) Shamiana Hirer

(g) Hire of Vehicles

- **If one bill does not cross Rs.30,000/- then you need not deduct tax.**
- **If you get more than one bill from a vendor and each bill is less than Rs.30,000/- then you need not deduct tax till the value of all the bills put together does not cross Rs. 1 lac in a financial year .**
- **If the value of all the bills put together crosses Rs. 1 lac then when making payment for the last bill you should deduct TDS for full value of all the bills put together from the beginning of financial year .**
- **TDS is to be deducted on the bill amount excluding GST.**

Payment of Rent

- (a) If you are paying any rent for any building that exceeds Rs.2,40,000/- in one financial year (20,000/- per month) then you have to deduct TDS @ 10%.**
- (b) If you are paying rent or hiring charges for furniture , sound equipment, Generator etc. To one vendor that exceeds Rs. 2,40,000/- then you have to deduct TDS @ 2%**

Payment of Professional Services

Payment to:-

- (a) Auditors
- (b) Lawyers
- (c) Engineers
- (d) Doctors
- (e) Technical Consultant
- (f) Interior Decorator, Architect
- (g) Musicians , sound recording , videography

When the payment to anyone of the above persons crosses Rs.30,000/- in one financial year then you have to deduct TDS @ 10%.

Payment of Brokerage

When you pay any commission for more than Rs.15,000/- then you have to deduct TDS @ 5%.

Payment of Interest

➤ **When you borrow money from any person other than bank then you have to deduct TDS @ 10% on the interest paid. If Interest crosses Rs.5,000/- in one financial year. Eg. Vehicle loans from TATA Capital, Bajaj, Sundaram Finance.**

➤ **When you pay EMI you calculate interest paid and deduct TDS.**

Payment of Salary

➤ **Salary payment to any person more than Rs. 45000/-**

Buying Property for more than Rs.50 Lakhs

- **If you are buying Land / Building / Land & Building for more than 50 Lakhs from a person in India the you have to deduct 1 % TDS on the payment being made to them**
- **If the seller is Non-resident then you have to deduct 22.80%.**

If required to deduct TDS

- 1. Get TAN**
- 2. TDS deducted in one month is to be paid before 7th of next month.**
- 3. File quarterly returns**

Note : All The Vendors from whom you are deducting TDS should have PAN. It is advisable that you collect a copy of their PAN Card and keep it as evidence. This will help us quoting the correct PAN while filing TDS returns . If the vendors do not have a PAN then TDS @ 20% will be applicable. Hence It is advisable that you should deal with vendors having PAN.

Two Important Rules

- 1. No expenditure of more than Rs.10,000/- on a single day by cash.**
- 2. Deduct TDS while making certain payments as discussed above.**

If you do not follow above two rules you will end up paying tax @ 30% for the organisation.

Donation Paid

When you are donating even Rs.1/- (from your local account) your donor should have 12AA exemption, your object and their objects should match.

80 G


- If your Donor donates more than Rs. 2000/- in cash, no 80G Exemption will be available.
- It is mandatory to collect the details of Aadhar number and PAN of the donors. This rule applies even if the donor does not claim 80G exemption.

ESI & PF

If your organization employs more than 20 people, you will be covered under the PF Act and must follow all the rules and obligations under the said Act.

General

- (a) Books of accounts to be kept ready till 31st March 2023 by 1st week of April. You have to file return before 30th September 2023. If not filed before due date you will lose your exemption.**
- (b) If you are constructing a church on land not belonging to trust then you will need to have a long term lease deed.**
- (c) Fixed Assets should be bought in the name of organisation only. If bought in trustee name trust will lose exemption.**



SUMMARY

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THANK YOU..