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LAW ON NOT FOR PROFIT ORGANIZATION (NPO) IN INDIA

Mode for setting up NPO –

A Non Governmental Organization is perceived to be an association of persons or a body of individuals with non-profit motive. Such organizations may be registered under any of the following Indian Acts:

1. As a Charitable Trust;
2. As a Society registered under the Societies Registration Act;
3. As a Company licensed under section 25 of the Companies Act - These are allowed to carry on the educational, religious and charitable activity, and are prohibited from earning the profit making from the activities they intend to commercially take up. In other words, these are "**Not for profit Company**".

In the NPO established under Indian Law in modes as stated above, foreign person are entitled to have equity participation as well as managerial position but in compliance with the applicable conditions / procedure and after qualifying the eligibility criteria.

The Foreign Contribution (Regulation) Act, 1976 (FCRA)

The object of FCRA is to regulate the acceptance and utilization of foreign contribution in the form of donations to the not for profit organization or charitable institutions, associations or organisations working in the voluntary sector. For getting foreign contribution to fund its activities, such organizations are required to be registered under FCRA. Further, the profits earned by these associations cannot be taken out of the institution / association and are to be reinvested towards the objectives of the association only.

Conditions for receiving foreign contributions –

- (a) It should be registered in accordance with rules made under this Act;
- (b) It agrees to receive such foreign contributions only through designated branch of a bank as specified in its application for registration;
- (c) It shall intimate the Central Government of the amount as well as the source of foreign contribution and the manner of its utilization.

Registration under FCRA -

Any society, trust or charitable company, carrying on educational, charitable, religious, economic, cultural or social welfare activities, and desirous of receiving foreign contribution, is required to obtain registration under Section 6(1) of the Act.



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Eligibility criteria for grant of registration or prior permission:

- (i) Such organization shall be registered under the Societies Registration Act, 1860 or Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956;
- (ii) It shall be in existence for atleast 3 years having made significant contribution in chosen area of activity by spending specified amount during said period on its activities, excluding administrative expenditure.

Documents required with the registration application:

- (i) Certified copy of registration certificate or Trust deed, as the case may be;
- (ii) Details of activities during the last three years;
- (iii) Copies of audited statement of accounts for the past three years (Asset and Liabilities, Receipt and Payment, Income and Expenditure);
- (iv) If functioning as editor/owner/printer/publisher of publication registered under "Press and Registration of Books Act, 1867", a certificate from Press Registrar that such publication is not a newspaper under section 1(1) of the Act.

Documents required with the application for grant of Prior Permission:

- (i) Certified copy of registration certificate or Trust deed, as the case may be;
- (ii) If functioning as editor/owner/printer/publisher of publication registered under "Press and Registration of Books Act, 1867", a certificate from Press Registrar that such publication is not a newspaper under section 1(1) of the Act;
- (iii) Commitment letter from foreign donor specifying foreign contribution amount;
- (iv) Copy of project for which foreign contribution was solicited / is being offered;

Time Limit for Disposal of Applications

Application for registration - within six months from the date of filing

Application for prior permission - within 90/120 days from the date of filing

Post registration Requirements – Annual Filing

To maintain separate set of accounts and records exclusively for the foreign contribution received and utilized and submit an annual return in prescribed Form FC – 3 for every financial year (1st April to 31st March) within a period of four months from the closure of the year i.e. by 31st July of each year, duly certified by a Chartered Accountant, giving details of the receipt and purpose-wise utilization of the foreign contribution. Even if there is no receipt/utilization of foreign contribution during the year, the submission of "Nil" returns is mandatory under law.