Pakistan Centre for Philanthropy

Taxation of Non-Profit Organizations (NPOs)

Compliance requirements

Pakistan Centre for Philanthropy

Compliance Requirements for NPOs

There are several requirements specified in Income Tax Rules 2002 (Rule 211-220B) which are required to be complied by Non-Profit Organisations (NPOs). Nonconformance or noncompliance to these can not only lead to rejection of NPO Status granted under section 2(36) of Income Tax Ordinance 2001 but also non-availability of tax credit and exemptions, where applicable.

There are two types of compliance requirements for Non-Profit Organisations as specified by Income Tax Rules, 2002. These include;

1) Charter Requirements
2) Other Requirements

1. Charter Requirements

Rule 213 (1) of Income Tax Rules 2002 specifies that constitution, memorandum and articles of association, trust deed, rules, regulations or bye laws as the case may be, should provide

Audit

i. for the audit of the annual accounts of the organization every year by a qualified accountant as specified in clause (f) of sub-rule (2) of rule 211;

Quorum for meeting of the members of the body

Section 42 Companies, Societies & Social Welfare Organisations

ii. where the organization is registered under the Companies Ordinance, 1984, the Societies Registration Act, 1860 (XXI of 1860), the Voluntary Social Welfare (Registration Control) Ordinance, 1961 (XLVI of 1961), or any other law in substitution thereof relating to the registration of welfare organization, for the quorum of a meeting of the members of the body in which the control of the affairs of the organization vests, being not less than four or one-third of the total number of the members of such body, whichever is greater;

Trusts

iii. where the organization is a Trust as defined in the Trust Act, 1882 (II of 1882), for the quorum of a meeting of the members of the body in which the control of the affairs of the trust vests, being not less than three or one-third of the total number of the members of such a body, whichever is greater;

Transfer of Assets when dissolved

iv. for the transfer of its assets, in the event of its dissolution, after meeting all liabilities, if any, to another organization which is an approved non-profit organization, within three months of the dissolution under intimation to the Commissioner;

Utilization of money, property or income for objects

v. for the utilization of its money, property or income or any part thereof solely for promoting its objects;

Prohibition on transfer of dividend or profit to members of their relatives

vi. for prohibiting any portion of its money, property or income being paid or transferred directly by way of dividend, bonus or profit to any of its members or the relative or relatives of a member or members;

Maintenance of accounts

vii. for the maintenance of accounts of the organization being kept in a scheduled bank or in a post office or national savings organization, National Bank of Pakistan or nationalized commercial banks;

Prohibition on making changes to Constitution

viii. for prohibiting the making of any changes in the constitution, memorandum and articles of association, trust deed, rules and regulations or bye-laws, as the case may be, without the prior approval of the Commissioner:

Provided this clause will have effect only in cases where the approval is granted.

Restriction of Surplus or monies validly set apart

ix. for restricting the surpluses or monies validly set apart, excluding restricted funds, up to twenty-five percent of the total income of the year:

Provided that such surpluses or monies set apart are invested in Government securities, National Saving Schemes, issued by the Central Directorate of National Savings, NIT units, a collective investment scheme authorized or registered under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, mutual fund, a real estate investment trust approved and authorized under the Real Estate Investment Trust Rules, 2006, or scheduled banks:

Explanation: For the purpose of this rule, "restricted funds" mean any fund received by the organization but could not be spent and treated as revenue during year due to any obligation placed by the donor.

Role of Pakistan Centre for Philanthropy (PCP)

When Non-Profit Organisations (NPOs) apply for performance evaluation/certification to Pakistan Centre for Philanthropy, as part of the mandatory requirements, desk review of NPO's charter is undertaken. In case the above clauses as specified by Income Tax Rules 213(1) of Income Tax Rules, 2002 are not reflected in NPO's charter or governing document, we require the applicant NPO to amend its charter or governing document so as to bring it in compliance with Income Tax Rules, 2002. If any Non-Profit Organisation (NPO) does not comply with the requirements specified by Rule 213(1), then it is one of the grounds for the Commissioner of Inland Revenue to refuse the application.

2. Other Requirements

In addition to the above, there are several other compliance requirements for the Non-Profit Organisations (NPOs) specified in Income Tax Rules, 2002. These include;

a) Absence of Personal Gain

Non-Profit Organisation should not be used for personal gain of any particular person or a group of persons. In case of any evidence to this effect, Commissioner Inland Revenue can refuse the approval of NPO status to such NPO.

For example, payment from the NPO funds for the personal litigation suit on any member of the NPO, shall raise question about personal gain.

b) Non-Propagation of view of political party or religious sect

Non-Profit Organisations can not involve in propagation of views of any political party or any religious sect. Although, NPOs can operate to promote a particular religion, however, the promoting views of any religious sect are not allowed.

c) Management of NPO in a manner to personally benefit its members or their families

Non Profit Organisations should be managed as openly & transparently as possible meaning thereby, NPOs should work for the public benefit. If there is evidence that a particular NPO is being run so as to personally benefit its members or families of the members, then Commissioner Inland Revenue is likely to refuse NPO status to such organisations.

d) Unsatisfactory performance evaluation report from an Independent Certification Agency i.e. Pakistan Centre for Philanthropy (PCP)

Non-Profit Organisations are also required to obtain a satisfactory report from an Independent Certification Agency i.e. PCP. Pakistan Centre for Philanthropy (PCP) evaluates the performance of NPOs against standards duly notified by Federal Board of Revenue (FBR) and issues and evaluation report in this regard. In case of unsatisfactory report, Commissioner Inland Revenue is not likely to grant NPO status.

e) Expenditure on salaries exceeding 50% of the total receipts

It is also one of the several requirements where the income tax law requires NPOs to limit their expenses on salaries up to the maximum level of 50% of the total receipts excluding the restricted funds received during the tax year.

For Example,

Receipts during the tax year	Restricted Receipts (Rs)	Restricted funds are to be excluded	Unrestricted Receipts (Rs)	% Salary
	50,000		100,000	60%
Less: Salaries Expense	15,000		60,000	

In the above case, salaries from restricted funds received during the tax year are greater than 50% which is non-conformance to the above requirement.

f) Non-provision of information regarding names, CNIC/NTN, last income declared, tax year and addresses of the promoters, directors, trustees, president, secretary, treasurer, manager and other office bearers, as the case may be, of the organization and indicating clearly their family relationships, if any, with each other

This is a new requirement inserted by the S.R.O. 754(I)/2016 dated 15th August, 2016. NPOs are required to provide related information as specified in the above clause.

g) Failure to give valid reasons for setting apart, or not utilizing, or accumulating surpluses

Non Profit Organisations are required to provide valid reasons for setting apart or accumulating surpluses. Failure give valid reasons can result in refusal to NPO status.

h) Failure to file the return of income supported with following documents

(1) Statement of audited balance sheet and statement of accounts as mentioned in clause (d) of sub-rule (2) of rule 211

(2)

(3) Statement showing names and addresses of the persons from whom donations, contributions, subscriptions etc. exceeding Rs.5,000/- have been received during the tax year;
(4) Statement showing the names and addresses of donees and beneficiaries etc. to whom payments, services etc. exceeding Rs.5,000/- have been made during the tax year; and
(5) Statement showing the money set apart or kept un-utilized with reasons thereof;

i) Failure to file statements of deduction of income tax under section 165 read with rule 44

Non-Profit Organisations are treated as companies in the Income Tax Ordinance, 2001. Being companies, NPOs are required to act as withholding agent and therefore, collect and deduct tax on behalf of the government and then deposit it in government treasury within stipulated time. Apart from deducting and collecting taxes, NPOs are also required to file statement for taxes so deducted or collected, every month. Non-filing of such statement can lead Commissioner Inland Revenue to refuse the grant of NPO status, tax credits or exemptions (as applicable).