

## **INDIA--OTHER ASPECTS OF THE DIRECT TAXES CODE FOR NON-PROFIT ORGANIZATIONS**

Chapter IV of the draft Direct Taxes Code contains “Special Provisions Relating to Computation of Total Income of Non-profit Organisations.” Some of the important features of this chapter are as follows:

1. The new regime will uniformly apply to all non-profit organizations irrespective of the nature of their activities.
2. An organization will be treated as a non-profit organization if:
  - (i) It is established for the benefit of the general public;
  - (ii) It is established for carrying on permitted welfare activities;
  - (iii) It is not established for the benefit of any particular caste;
  - (iv) It is not established for the benefit of any of its members;
  - (v) It actually carries on the permitted welfare activities during the financial year and the beneficiaries of the activities are the general public;
  - (vi) It does not intend to apply its surplus or other income or use its assets or incur expenditure, directly or indirectly, for the benefit of any interested person;
  - (vii) Any expenditure by the organization does not inure, directly or indirectly, for the benefit of any interested person;
  - (viii) The funds or assets of the organization are not used or applied, or deemed to have been used or applied, directly or indirectly, for the benefit of any interested person;
  - (ix) The surplus, if any, accruing from its permitted activities does not inure, directly or indirectly, for the benefit of any interested person;
  - (x) The funds or the assets of the non-profit organization are not invested or held in any associate concern or in any prescribed form or mode;
  - (xi) It maintains such books of account and in such manner, as may be prescribed;
  - (xii) It obtains a report of audit in the prescribed form from an accountant before the due date of filing of the return in respect of:
    - The accounts of the business, if any, carried on by it;
    - (B) The accounts relating to the permitted welfare activities; and

(xiii) It is registered with the Income-tax Department under the Code.

There are also complex rules for the computation of income of non-profit organizations; the generally applicable tax rate is 15%. Surprisingly, the gross receipts to be taken into account include contributions, unless they are designated as being made to the endowment. In addition, passive investment income is included. On the other hand, the amounts paid out to carry out “permitted welfare activities” or capital expenditures for such purposes are deductible from gross receipts in order to arrive at the income of an organization.