



IMPACT OF DRAFT DIRECT TAX CODE BILL 2009 ON CHARITIES AND VOLUNTARY SECTOR OF INDIA

AN APPEAL FOR ACTION

In its latest one sided experimentation with voluntary sector, the Finance Ministry came out with 'Direct Tax Code Bill', on August 12, 2009. **The initial observation on these codes, applicable to all voluntary organizations of India, predicts a very gloomy future.** On the one hand the government promises decent life to "Aam Admi" (common people), and on the other, the country is going through a challenging phase due to financial recession and failure of crops, it is very unfortunate that those who are working hand in hand with government to serve the marginalized and the poor are being targeted. The preliminary listing of the changes proposed in the new Direct Taxes Code 2009 appears to lead to several adverse implications for the voluntary sector and may perhaps undermine its financial sustainability and survival in the long run.

Being the independent voice of the sector, VANI, decided to put forward the concern in front of government, policy makers, media and public. The points given below are based on the input from renowned Tax consultants. We are sending this appeal to take appropriate action to influence and impact. It is still a bill to be presented in next session of parliament. If passed we all would be paying income tax from 2011. **The Finance Ministry has invited response from public and last date is September 30, 2009.**

Some preliminary findings that would lead to the adverse changes that might hamper the functioning of the sector are:

1. This code is applicable to all organizations operating as not-profit entities, which can range from foundations, NGOs, research and advocacy organizations, charity hospitals, etc. Whether they are providing health or livelihood related services to marginalized in remote villages, or conducting research based advocacy, printing popular publications for public awareness, charging nominal user fee to provide sustainability to community initiative. Unfortunately, this code puts large public (Ports, Religious, Public Schools, Corporate Hospitals) trusts and small organizations in one category.
2. NGOs will not be able to carry forward unspent income of one year to the next year, without paying a 15% tax on it. The same applies to multi-year grants - they will not be able to set aside or accumulate funds for long-term projects. Income and expenditure will have to be accounted on cash basis only. Many times we do get funds from Government or foreign agencies at any time of the year which normally spread across the financial year. Secondly, also due to local reasons, especially working with government have to adjust projects with local elections, availability of operating space, these project get extended. As per the proposed code all that funds will be taxed. This will not only substantially reduce the budget meant for poor but also put NGOs in crises that are already starving due to non-availability of bilateral funds for India.
3. The grant-making will become further complicated for most of the donor agencies of India. Many of them prefer to provide grant in one installment for multi-year projects so that implementation does not effect. Now all that flexible grants provided by government or private agencies will be taxed.
4. Though surplus of one year will be taxed, it may be difficult for the NGOs to bring forward deficit of a past year, and set it off against the surplus. Thus, if we spend borrowed money for a project, we may end up paying tax when the grant is actually received next year.
5. The concept of 'Charitable Purpose' has been replaced by 'Permitted Welfare Activities'. This might reduce innovation and flexibility of approach, as the concept of 'permitted' is left undefined and vague. We would like to stress here that most of the flagship programmes of Indian government have their origin in experimentation and innovations by NGOs at grass roots level. Some of them are 'Asha' in NRHM, Social audits in NREGA, decentralized districts planning done by Planning Commissions, Right to Information, Empowerment of Women and Dalits in Panchayats, universal primary education, etc. We fear that under this Code we have to argue, convince, and define our work to government officials every year. This will lead to not taking up innovative approaches to avoid taxation.
6. For the last few years many NGOs are involved in raising funds locally by either producing greeting cards which are also means to spread social development message, or charging nominal user fee to provide sustainability to the local initiatives. Our preliminary assessment makes us to believe that all this meager income which is generally used in projects will be taxed. Approval under 35AC (100% deductibility for donors) is being discontinued. NGOs will be able to offer a maximum of 50% deductibility to their donors.

How you can be a part of this movement?

- Discuss this with your chartered accountant to ascertain how this Code is going to impact your organization. Develop a note and send it to the Finance Minister.
- Send a copy of that note to VANI (info@vaniindia.org). We intend to compile your appeals and forward to Finance Ministry.
- Initiate awareness campaigns about the draft Direct Tax Code Bill 2009 and generate active debate on the issue with your stakeholders.
- Send representations to your local MPs. Urge them to ask question in Parliament.
- Intensive campaigning Media to highlight this issue locally and nationally.
- Sharing this information with your partners / members, so that they can also understand the gravity of situation. Urge them to be part of this campaign.
- Organisations should give comments about the impact of the Code on their work on the website of the Ministry of Finance using the following links <http://finmin.nic.in/DTCCode/index.html> ; <http://finmin.nic.in/DTCCode/query.asp>; you can also write directly to Shri. Pranab Mukerjee, Hon'ble Minister of Finance at Room No - 132 C, North Block, New Delhi - 110001, Phone: 011- 23092810; 23092510, Fax: 011- 23093289, Email: pkm@sansad.nic.in

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