

Respected Hon'ble Member,

Greetings from VANI!

I am writing this appeal on behalf of VANI (Voluntary Action Network India), which is apex body of voluntary organisations in India with the outreach of 4000 small and medium sized organisations. Our members are primarily development organisations engaged in working towards improvement of quality of life of marginalised communities all over India. The prime objective of VANI is to facilitate enabling environment for such small and medium sized organisations.

The bill on Direct Taxes Code is scheduled to be placed in the Parliament on August 30, 2010 for debate. We would like to draw your attention towards the proposed taxation on charitable organisations. **We are not against identifying such operations but equally important are to safe-guard the small or medium sized organisation working primarily on development projects.** These projects are run with the help of grants and supports received from government or other funding agencies.

Some of the key suggestions are as follows:

1. **Accumulation of Income:** Since grants are given on the condition to deliver a project or activities and should be considered as liability and not as income. There is need to differentiate grants from donation.
2. **Conversion of an NPO into commercial organisation:** There should be clear definition of "Charitable Activities" as many times small income for self sustaining the project or developing the ownership of project should not be seen as income.
3. **Corpus:** The voluntary organisations should be allowed to save their surplus, if any, which is generally used for un-planned expenditure at the case of natural calamity or developing educational/ health facility to be used by poor.
4. **Categorize NPOs:** The government should categorise and differentiate large Not-for-Profit entities from small and medium sized development organisations. If the same could be done for industries it is possible for this sector also. The smaller ones need patronage for their existence.
5. **Promote mutual transparency and accountability:** The revenue data of the sector should be made public on the website of Income Tax department which will help in generating resources locally.
6. **Retain the spirit of National Policy on Voluntary sector:** In May 2007, the Government of India adopted a national policy on Voluntary Sector. This policy clearly provides the guidelines for engagement of voluntary sector as well role of sector in nation building. It is expected that while passing the 'Direct Taxes Code', it will be taken into consideration.

In the document attached we have listed down some of the proposed provisions which are going to harm the spirit of voluntarism in the country, with some concrete recommendations where the concern of government could be addressed. **We urge the need of transparency of data related to taxation benefits to charity organisations. We would like to appeal you to raise the issue and support us.**

In case you need any further information please contact us.

Thanking you

Sincerely,

Harsh Jaitli
Chief Executive Officer
VANI

Response on Revised Draft Direct Taxes Code Submitted by VANI to Finance

Minister

Concern	Impact	Recommendation
<p><u>Application of Income After Current Year:</u> The Revised DTC has reaffirmed that the NPOs have to apply at least 90% of gross receipts or 85% of income for charitable purposes during the year of receipt which may not be practically possible.</p>	<p>It will cause undue hardship to NPOs which are unable to spend the income due to legitimate reasons such as late receipt of funds. Under the current provisions, NPOs are permitted to apply 100% of income in next 5 years if there are legitimate reasons for such non application. It may also be mentioned that the proposed provision is taking a very myopic view of development work as NPOs also engage in long term projects which extend beyond 12 months and are generally between 3 to 5 years.</p>	<p>The NPOs be allowed to apply the Income for charitable purposes if the income is not applied, for legitimate reasons, during the year. It is imperative that the current provisions of section 11(2) and explanation to section 11(1) which provide 5 years and 1 year additional time for application of funds are restored.</p>
<p><u>Accumulation of Income-</u> The current provision of 15% indefinite accumulation has been withdrawn. The Revised DTC does not permit NPOs to save or accumulate even a single rupee. In other words, 100% of the income has to be utilised. Traditionally NPOs have been allowed 25% as accumulation for future. After 1st April 2002 NPOs are being permitted 15% as accumulation for future.</p>	<p>If NPOs are compelled to apply 100% of their income every year then it will affect the future sustainability of the NPO sector as the corpus will be eroded and there will be no savings to negate inflation.</p>	<p>The NPOs be allowed to save and accumulate at least 15% of their current year's income for future sustainability and to negate inflation. The current provisions of 85% application for charitable purposes should be retained.</p>
<p><u>Business Activity of An NPO-</u> Presently the incidental business activity is allowed under the Income Tax Act for the specified category of NPOs. The proposed Code</p>	<p>Now since the new code has redefined the incidentality of business and no NPO can engage in unrelated business activities, there is no need to prohibit one category of NPOs</p>	<p>Clause (b) to section 96 of the proposed DTC should be deleted, since no NPO is allowed to have business which is not incidental. Therefore, all NPOs should</p>

<p>has restricted the coverage of incidental business activity and has allowed only those business activities which are carried on while actually undertaking the welfare activities. This is a proposal in the right direction. However, after this change there is no need to deprive the sixth category NPOs from engaging in business activities. The current law and the proposed code prohibit business activities in case of NPOs engaged in 'Advancement of any other activity of general public utility'.</p>	<p>from engaging in business activity. In any case all categories of NPOs have to engage in incidental business activities only. If the business activity is incidental, then there is no reason why the benefit would not be extended to all categories of NPOs. The Direct Tax Code has already taken an understandable step by providing under section 96 that 'business shall be treated as incidental only if it is carried on in the course of implementing welfare activities'</p>	<p>be allowed to undertake business activities if carried on in the course of implementing charitable activities.</p>
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