

**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>Accumulation of Income-The current provision of 15% indefinite accumulation has been withdrawn.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>Business Activity of An NPO-Presently the incidental business activity is allowed under the Income Tax Act for the specified category of NPOs. The proposed Code 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>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 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>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 be allowed to undertake business activities if carried on in the course of implementing charitable activities.</p>