

## **Schools must file I-T returns**

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Tax Matters/ S.P. Babuta  
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Among THE commonly asked questions relate to running of a school. These include its sole proprietorship, exemption from paying income tax, and filing of income tax returns. People also want to know if the constitution of the school should be a society or a trust.

Income from running an educational institution would be exempt from Income Tax if the following conditions are satisfied:

The educational institution should:

- exist solely for educational purposes and
- not for purposes of profit.

Further if the aggregate annual receipts of such educational institution do not exceed Rs.1 crore then it is automatically exempt under section 10(23C)(iiiad) and

Where the aggregate annual receipts of such educational institution exceed Rs.1 crore then it has to apply to the Chief Commissioner of income tax for approval. This application has to be made in Form 56D and when such approval is granted it remains effective for a period not exceeding three assessment years.

Based on various case laws settled by the apex court some basic eligibility criterion for these exemptions have come by:

- i) The institution should have a public character.
- ii) Application of income should be solely for educational purpose. Which shall also mean that the sources of income may be any but the application of income should be for educational purpose to be eligible for exemption.
- iii) To remain engaged in education would mean continuously carrying on even on the date of application and on the date of consideration by the authorities for grant of exemption.
- iv) The educational institution should engage in educational activity in India.
- v) Private profit is prohibited. If the profit of the educational institution can be diverted for the personal use of the proprietor thereof, then the income of the educational institution will be subject to tax. This answers part (i) of your question.
- vi) Merely because certain surplus arises from its operations, it cannot be held that the institution is being run for the purposes of profit so long as no person or

individual is entitled to any portion of the said profit and the said profit is used for the promotion of the objects of the institution.

- vii) Profit from selling of text books would not vitiate the claim for exemption since it is an activity which is incidental to the main objective of the institution i.e. running the educational institution.
- viii) There is no restriction as to compulsory affiliation of the institution with any particular university or board.

Schools are generally run by societies/trusts. But that is more by compulsion than choice because education boards like ICSE and CBSE mandate the constitution of the applicants as a society or trust. There is no compulsion under Income Tax Act.

Filing of Income Tax Return is Mandatory. Even though incomes exempt u/s 10 would not form part of total income but a nil return alongwith necessary details is required to be filed.