

# All about Foreign Contribution (Regulation) Act, 2010 By Sakshi Rewaria

December 26,2018:

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## Q1. What was the primary purpose of regulating the foreign contributions?

Ans. The FCRA was enacted with the primary purpose of regulating the inflow of foreign contributions and ensuring that the received foreign contributions are not utilized for purposes other than those specified under the legislation. All charitable organizations in India receiving foreign contributions come under the purview of this Act.



## Q2. What is the Legal Objective of the Act?

1. To **regulate the acceptance and utilisation of FC/donations** or foreign hospitality by certain individuals or associations or companies; and
2. To prohibit acceptance and utilisation of FC/donations or foreign hospitality for any activities **detrimental to the national interest** and matters connected thereto.

## Q3. What is meant by a Foreign source under the act?

As per Section 2(1) (j) of FCRA, foreign source (Basically a source outside India from where the contribution is received) includes:-

- The government of any foreign 'country' or 'territory' and its agency(s);
- Any international agency(not being the United Nations or any of its specialized agencies)
- a foreign company;
- a corporation, not being a foreign company, incorporated in a foreign country or territory;
- a multi-national corporation as per clause (g)(iv);
- a company within the meaning of the Companies Act, 1956 or Companies Act, 2013 and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate by any of the following;
  - the Government of a foreign country or territory;
  - the citizens of a foreign country or territory;
  - corporations incorporated in a foreign country or territory;
  - trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;
- Foreign company;
- a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- a society, club or other association or individuals formed or registered outside India;
- a citizen of a foreign country

#### **Q4. What is meant by “foreign contributions” in the act?**

Ans. “Foreign Contribution” is defined Section 2(1)(h) of FCRA as a donation, delivery or transfer made by a foreign source of:

1. any article (unless given to an individual for personal use), the value of which ought not to exceed Rs. 25,000/-;
2. currency, foreign or Indian, or
  - foreign securities including all foreign debentures, bonds, shares, stocks and similar instruments of credit. Any income or interest generated from such contributions is also treated as a foreign contribution under the FCRA.

#### **Q5. On whom does the act applies?**

Ans. It Applies to whole of India including the following:

- Citizens of India outside India;
- Foreign Branches and Subsidiaries of 'Body Corporates registered in India'.
- However, not applies to a company registered under Companies Act, 1956/2013 whose more than half of nominal capital is held by foreign company or a foreign source.

#### **Q6. Is there any Registration / Prior permission?**

Ans. The organizations having a definite cultural, economic, educational, religious or social programme are entitled to accept foreign contributions under the FCRA. Such contributions may be accepted only with the approval of the Government of India, through the Ministry of Home Affairs.

In order to be eligible to receive the foreign contributions, an organization may seek prior approval either each time the entity is to receive contributions or by obtaining a one-time long term registration, which is valid for a period of 5 years. In the latter case, the permission needs to be renewed by applying at least 6 months prior to the date of expiry of the said permission. It may be noted that while not stipulated in the FCRA, it is general practice that in order to be eligible to make a long term application, the applicant needs to be in existence for a period of 3 years. Therefore, in the interim, it is often seen that organizations apply for the one time permission, commonly referred to as "Prior Permission".

#### **Q7. How is the fun to be utilized?**

Ans. Upon obtaining registration/prior permission, the organization is required to open and maintain a bank account exclusively for the receipt and utilization of foreign contributions under FCRA. All transactions related to foreign contributions must be executed only from the aforesaid bank account. In addition, a separate set of accounts and records is required to be maintained, exclusively for foreign contributions received and utilized.

FCRA mandates that foreign contributions should be utilized only for the purpose for which they were received. It also imposes restrictions on the transfer of contributions. A person is prohibited from transferring contributions to any other person, unless such transferee is authorized to receive foreign contributions.

#### **Q8. Is there any reporting requirements?**

One of the most important reporting requirements that is often overlooked by organizations, is the submission of annual returns. Every organization is required to submit the annual returns to the Central Government within 9 months from the closure of the relevant financial year. This return has to include the details of the contributions received, source and manner in which it was received, purpose for which it was received and the manner of usage of the contributions.

#### **Q9. What are the necessary details to be furnished?**

Ans. Details to be furnished to Department and Website requirements:

- Organisations receiving FC shall **upload Audited Accounts on official website within 30 days.**

- **Reporting of receiving of FC within 7 days** at its own website or govt. website.
- Details of '**Social Media Accounts**', '**Association Profile**', **bank account details**, '**bio data's of trustees**' and 'whether '**office bearers** are part of other NGO's' to be given to department.
- Any **foreigner** associated with an NGO, who is visiting India, will have to furnish his/her **details with the Foreigners Regional Registration Office (FRRO)**, spelling out the **purpose** and dates of the visits.
- List out the **activities and declarations on website**.
- Filling of **online tax returns**.

**Q10. Which transactions fall outside the perview of the act?**

Persons to whom section 3 shall not apply .—

- by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or
- by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or
- as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or
- by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or
- from his relative; or
- by way of remittance received, in the ordinary course of business through any official channel, post-office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999 (42 of 1999); or
- by way of any scholarship, stipend or any payment of like nature: