



FAQs on Recent FCRA Notice Dated 18.03.2020



What is the objective of Ministry of Home Affairs – FCRA division, behind the release of this notice?

Answer:

The objective is to give a one-time opportunity for restoring their registration by re-application to genuine FCRA registered organizations who violated the regulations of the Act due to unavoidable circumstances and never intended to avoid the statutory compliances under the Act.



What exemption has been given by the department in this notice?

Answer:

The department has given one time exemption from the restrictive condition of Section 14(3) of the FCRA, 2010 which says that once the FCRA registration is cancelled, the organizations can apply only after a period of 3 years from the date of such cancellation of certificate.



Which organizations are eligible for the exemption as mentioned in the notice?

Answer:

The organizations whose registration was cancelled due to non-filing of Annual Return for the FY 2017-18.



When the FCRA registration of such organizations was cancelled?

Answer:

The Ministry of Home Affairs vide notice dated 18.10.2019 cancelled the registration of such organizations.



What was the due date for filing the annual return for FY 17-18?

Answer:

The due date for filing annual return under the Act is 9 months from the end of the financial year i.e. 31st December. However, for FY 2017-18, the date was extended by three months to 31-03-2019.



Whether the organizations were given any opportunity before cancellation of their registration?

Answer:

Yes, the Central Government vide e-notices/SMSs dated 22.05.2019, had directed all the defaulting organizations to submit the mandatory annual return for FY 2017-18 within 15 days of the receipt of such notices/SMS.



Was this the only opportunity given to the organizations?

Answer:

No, a final E-notice/SMS was again issued by the Government on 11.06.2019 to all the defaulting organizations in the form of opportunity to submit the mandatory annual return for FY 2017-18 within 15 days of issue of this e-Notice/SMS.



Whether non-filing of returns can lead to such serious penalty of cancellation of registration by the Government?

Answer:

Yes, non-submission of annual returns is a violation of Section 18(1) of FCRA, 2010 read with Section 17(1) of FCRR, 2011 and therefore held liable for penal action as per the provisions of Section 14 of the Act, which is quoted below:

“The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if..... (d) the holder of the certificate has violated any of the provisions of this Act or rules or order made thereunder;”



What are the consequences of cancellation of registration and whether the organization can restore the same?

Answer:

Once the registration is cancelled the organization shall lose the identity of being FCRA Registered and will no longer be eligible to receive any foreign contribution.

No, under no circumstances the registration can be restored, until any notice is issued by the Ministry of Home Affairs giving an opportunity to do so. Once cancelled, the organization shall not be able to apply for registration for a period of 3 years from the date of such cancellation.



After cancellation of registration vide its order dated 18-10-2019, why the Government has now given an opportunity to apply for registration, giving exemption from the restrictive condition of Section 14(3) explained above?

Answer:

The Government have received representations from various organizations citing the circumstances due to which they were not able to submit the annual return for the FY 2017-18 and accordingly, considering the representations, such opportunity of exemption u/s 14(3) of FCRA, 2010, have been given.



What was the major reason cited by the organizations in their representations?

Answer:

There were many reasons cited by the organizations such as:

- a) they depended on their CA Firms or Accountants who somehow ignored the deadlines
- b) local difficulties like flood etc..
- c) mishandling of log-in/passwords by their CAs and other functionaries

However, the major reason cited by them, as also mentioned in the notice, was that now all FCRA process is online and in many cases the online account is operated by their CA or tax consultant, who are not aware of the strict monitoring by the Ministry.



What are the organizations expected to do in order to avail this opportunity?

Answer:

The organizations have to submit their missing annual returns along with payment of prescribed penalty as per the provisions of the Act and then re-apply for registration.



What is the penalty amount prescribed by the Government in this regards?

Answer:

As per the notification dated 05th June, 2018, the penalty for non-furnishing of intimation of the amount of each foreign contribution received and the source from which and in the manner in which, such foreign contribution is received as required is:

- Rs. 1,00,000 or 5% of the foreign contribution received during the period of non-submission, whichever is higher.



How much time has been given by the Government to avail this opportunity?

Answer:

The time granted to avail the opportunity mentioned in the notice is 60 days from the date of issue of the notice i.e. 18.03.2020. Therefore, the organizations have to file the annual returns and re-apply for registration within 17.05.2020.



Whether the registration will be restored on submission of annual return along with payment of prescribed penalty?

Answer:

No, the organizations have to re-apply for the registration again in the prescribed Form FC-3A.



What happens if the organization fails to submit the annual return within the time granted or fails to re-apply, after submission of the return?

Answer:

The FCRA registration of such organization which already stands cancelled remains status-quo and will not be restored.

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