

CIRCULAR No.63

- SUBJECT : -
- i)Exemption from contribution of income capitalized or added to corpus.
  - ii)Interpretation of the word “spent” in items(i) and (ii) of sub rule (3) of rule 32.
  - iii)Refund of income tax – whether chargeable to contribution.
  - iv)Entrance fees carried to corpus – whether chargeable to contribution.
  - v)Exemption from contribution of income from other properties of a business trust.

Certain questions relating to the interpretation of rule 32 of the Bombay Public Trusts Rules, 1951, and about exemption from payment of contribution have been raised. The questions together with their answers are given below for the information and guidance of all Regional officers :

Questions	Answers
<p>1.Whether the income (whole or part) of a public trust capitalized, i.e. added to the existing corpus or set apart as corpus of a separate fund, is exempted from contribution ?</p> <p>a)when this is done in pursuance of a direction(s) contained in the instrument of trust?</p> <p>b)when this is done in pursuance of a decision taken by the trustees without any direction to that effect in the instrument of trust?</p>	<p>Yes, because there is a direction in the instrument of trust to that effect.</p> <p>No, because there is not direction in the instrument of trust to that effect.</p>
<p>2.Whether in the case of a public trust having secular education imparted by a recognized institution or medical relief as one of its purposes, the portion of the income set apart and earmarked for these purposes but not actually spent during the accounting year, is to be allowed as a deduction in calculating the gross annual income liable to contribution?</p>	<p>No, the word “spent” used in items (i) and (ii) of sub rule (3) of rule 32 is intended to convey that only money that has actually passed into the hands of the beneficiaries should be excluded. The benefit does not accrue to the beneficiaries when the income is set apart or earmarked but not actually spent.</p>
<p>3.Whether the amount received during the accounting year by way of refund of the income tax paid against the income of the preceding</p>	<p>This question has been dealt with in the first question of this office circular No.62 dated 17<sup>th</sup> November, 1953.</p>

or previous years, is income of the accounting year for the purposes of contribution?	
4. Whether the entrance received from a member and carried over to corpus should be allowed as a deduction while calculating the gross annual income liable to contribution, merely on the ground that the trustees or managing or executive committee choose to treat it as an addition to corpus	No, because such an amount can not in the absence of a specific provision in the constitution be deemed to be a donation towards corpus.
5. Whether in the case of a public trust conducting business or trade, net annual profits would include income from property not held for the purposes of the business or trade?	No, as the income has nothing to do with the business or trade and it can not be set off against the deficits or losses incurred in the business or trade.

Dated : 14<sup>th</sup> December, 1953.

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