

Formation of An Approved & Registered Gratuity Trust

Indian and Multinational Companies form Gratuity Trust in terms of Part C of Fourth Schedule of IT Act, 1961 for getting tax benefits available under Section 36 (1) (v) & Section 10 (25) (iv) of the Income Tax Act, 1961. **These 2 Tax Benefits Are Not Available To Companies, If They Make The Provision Of Gratuity Liability In Balance Sheet At The End Of Each Financial Year Based On An Actuarial Report In Compliance Of As 15 (Revised 2005) & Ind As 19 As Per Requirement Of [Companies Act, 2013](#).**

Basis Steps for Formation of Gratuity Trust –

1. The Process of Formation of An Approved Registered Gratuity Trust starts with getting an Actuarial Valuation Certification/Report from Actuary which determines the **Initial contribution to be made by the Company into the Gratuity Trust**. The process of preparation of the inputs for actuarial valuation certification/report for initial contribution requires in-depth knowledge of various rules and regulation. The preparation of inputs for the Actuarial Valuation include following steps:

- Preparation of Employees data for eligible Employees/Management Personnel to be included in the trust as per Income Tax Rules, 1962 and Accounting Standard 15 (Revised 2005) & IndAS19.
- Finalizing the Financial (i.e. Salary Escalation) and Demographic Assumptions (i.e. Attrition Rate, Retirement Age, Mortality Rate, etc.) as per Past Trend of the Company and Accounting Standard 15 (Revised 2005) & IndAS19.
- Preparation of Plan Provision for Gratuity as per Payment of Gratuity Act 1972 (Amended).

2. Once the Actuarial Valuation Certification/Report is prepared then Initial Amount is available with the Organization then we provide them analysis of report and advisory for Initial Contribution to be made in Gratuity Trust.

3. Once the Management of Company give nod for Initial Contribution to be made the Management pass a board resolution to create a Gratuity Trust and Appoint at-least 2 trustees as per rules of Income Tax Rules, 1962. An Authorization Letter may be issued by the Management for Formation of An Approved & Registered Gratuity Trust to the Gratuity Trust Fund Consultant to outsource the process of setting up the An Approved and Registered Gratuity Trust.

4. Once the Board Resolution is passed and 2 trustees are appointed by the Management of the company then the process continue with the following steps: –

- Gratuity Trust Deed and Trust Rules executed and Registered with the Sub Registrar of the Jurisdiction of the Company.
- Once the Trust Deed and Trust Rules of the Gratuity Trust are registered then Trustees apply for PAN and TAN of the Gratuity Trust.
- After getting the **PAN** and TAN of the Registered Gratuity Trust then an Bank Account is opened in a Scheduled Bank as mentioned in Rules of the Income Tax Rules, 1962.
- Once the Bank Account of the Registered Gratuity Trust is Formed then Company pay the Initial Contribution into the Bank Account by Cheque or NEFT/RTGS.

- On receipt of Initial Contribution from the Company in the Registered Gratuity Trust, Trustees decides to Invest this amount into a Group Gratuity Scheme of Insurer (LIC, SBI, KOTAK, RELIANCE, HDFC, etc. etc.) or they invest the money as per rules of Income Tax Rules, 1962.
- Once the Investment is done then trustees of the registered Gratuity Trust apply for Approval of Gratuity Trust in Terms of Part C of Fourth Schedule of the Income Tax Act, 1961 with following documents: –
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- Board Resolution of Management/Company
- Registered Gratuity Trust Deed and Trust Rules
- PAN and TAN of Trust Deed
- Bank Account Details of Gratuity Trust
- Premium Receipt of Investment made by the Trustees into Group Gratuity Scheme of Insurer (LIC, SBI, KOTAK, RELIANCE, HDFC, etc. etc.) or Investment Portfolio of Investment as per rules of Income Tax Rules, 1962.
- Application to CIT for Approval and other relevant documents.

5. Once the **Approval from the Income Tax Department is received** then **Registered Gratuity Trust** becomes an **Approved Gratuity Trust** until it continues to satisfies the conditions specified in the Part C of fourth Schedule of Income Tax Act, 1961.

6. Company gets Tax Benefits for Contributions made into An Approved and Registered Gratuity Trust as per Section 36 (1) (v) until and unless **Approval from the Income Tax Department (CIT) is Valid.**

7. Approval for the Gratuity Trust becomes void, if Approval is not received from **the Income Tax Department (CIT) in** following cases: –

- Variation is made in Original Trust Deed.
- Variation is made in Original Trust Rules.
- Appointment of New Trustees.
- Variation in Original Benefits of Gratuity given by the Company in Trust Rules (i.e. Change in Ceiling Limit, Change in Vesting Condition for Gratuity Benefits, Change in Benefit Formula, etc.)
- Changes in Insurer of Group Gratuity Scheme.
- Merger & De-merger of Company
- Winding up of Group Gratuity Scheme.

8. An Approved Gratuity Trust is a separate entity in the eyes of Income Tax Department; hence Annual Audit of Gratuity Trust is done and ITR is filed. Cost of Audit is borne by the Company.

9. Actuarial Report under Gratuity Plan from Actuary is needed by the Company at the end of each Financial Year for compliance AS 15 (Revised 2005) & Ind AS 19 and assessment of Annual Contribution to be made by the Company into the Approved Gratuity Trust for getting tax benefits available under Section 36 (1) (v).

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