CHARITABLE TRUST REGISTRATION

BY

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(LAUNCH: 1.02.2018),

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**India is one of the world largest countries in terms of geographical area with 28 cities and seven union territories. Here in India you will find different types of companies offering wide verities of services to their clients. All this raises the demand of law firms in India. Especially from corporate sectors and business sectors, different types of legal services are demanded on a large scale.**

**Apart from corporate and business sectors, non profit organizations have given remarkable performance in India. Here in India you will find some world known NGO companies of the world. All these are famous for their non profit making along with producing earning for the benefits of others. Section 2(15) of the Income Tax Act in India is an ruling authority that states some rules and regulation that defines who are the non profit organization and they can be register. Basically non profit organizations are those organizations which are regulated for charitable purpose specially to include relief of the poor section of the society, medical relief, education, religious and other object of general public utility. There are various rules and procedures for Trust formation and Trust registration in India. The Indian Trusts Act 1882 is a codification of trusts law, introduced for India in 1882. It is an Act to define and amend the law relating to Private Trusts and. Trustees. Trust formation in India includes The name(s) of the author(s) / settler (s) of the trust, The name(s) of the trustee(s), The objects of the trust, The rights and duties of the beneficiary/ies, The name by which the trust shall be known and many more points are there which are concerned during formation of non profit organizations in India.**

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**The following elements are essential to form a trust:   
• The author of the trust**

**The trustee, The beneficiary,**

**The trust-property or the subject matter of the trust,  
The objects of the trust.**

**The document by which the trust is declared is called the ‘Trust Deed’.**

A trust is an agreement between group of individuals (called trustees) to manage property (movable or immovable including intellectual property rights) over which they have control either to benefit other individuals (called beneficiaries) or for charitable purposes. This group of trustees may be incorporated as a board under the Charitable Trusts Act 1957 if the objects are charitable.

A Trust can either be a private trust or a public charitable trust. Private trusts are governed by the Indian Trusts Act (1882) and are used for private purposes, such as running a private estate or institution. Private trusts are not given any tax benefits by the Government of India. If you want to do some charitable work for public –you can set up a public charitable trust. India does not have a national level law to govern charitable trusts. However, a few of the states have enacted Public Charitable Trusts Act (Like Bombay Public Trusts Act, 1950)

### Some common characteristics of trusts incorporated under the Charitable Trust Act 1957 are:

Trust has a board of at least two trustees;

Public Trust must have charitable purposes;

Trust has its trustees make the major decisions;

Trust is set up under a trust deed which outlines how it operates;

Trust often has more limited community or member involvement than incorporated societies;

Trust`s assets can be used to meet its debts, but if it is incorporated and trustees have acted responsibly, they are unlikely to be personally liable;

Trustees are generally not accountable in specific ways unless the deed specifically set these out;

it can be legally wound up at any time, unless a specific term for its existence has been stipulated in the trust deed (more common in private Trusts);

List of documents required to register a charitable trust

1. Original Trust Deed or a certified copy.

2. Application for Incorporation of Trustees as a Board The application must be signed by the majority of trustees.

3. Statutory Declaration. The statutory declaration states: whether any Trustees hold any property as trustees for other trusts; that at a meeting of the Trust a resolution was passed approving incorporation; and that the person making the Declaration has been approved by the Trustees to make it.

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Trusts are registered using a document called TRUST DEED. This document contains all the information about the Trust and is printed/written/typed. Along with these papers you would need to attach a Rs. 100 Non-Judicial stamp paper (please check the latest stamp act of respective state). All the Trustees are required to give thumb impressions and signatures on these papers. Same process is applicable for witness too. You will need a competent professional to draft the same.

**Following elements must be mentioned in the Trust Deed document:**

1. Name and address of the Settler (Settler is the person who is setting up trust)
2. Name(s) and address(es) of the other trustees
3. Name of the trust
4. Minimum and maximum number of trustees your trust can have
5. Address of the registered office of the trust
6. Objectives of the trust
7. Rules and Regulations of the trust

For registering a trust you need minimum two trustees (i.e. one settler and another person). You can decide the maximum number of trustees and this number must be mentioned in the trust deed. All the trustees together are called Board of Trustees. This board collectively governs the trust.

Unlike societies, in case of trusts all or some of the trustees can be related persons (i.e. they may belong to the same family)

Trusts are irrevocable –unless it is mentioned in the trust deed. This means that the trust cannot be wound up

Trustees are usually life-long members or their tenure is specified in the deed. Electoral process is not involved in the appointment of trustees.

Board of Trustees can also have various designations for trustees. Common designations are Chairperson and Managing Trustee

Trustees cannot draw any remuneration from the trust fund. However, they may take reasonable compensation for the professional services they provide to the Trust.

Profits earned by the Trust (e.g. interest gained from bank) cannot be distributed among the trustees.

Trust Deed can be amended through a Supplementary Trust Deed.

Most important part of the Trust Deed that you should pay special attention to is objectives of the trust. You should be as thorough as possible in writing down trust objectives so that you can function smoothly without any problems.

SATYAMEVA JAYETHE =MERA BHARAT MAHAAN==JAI HIND