



Setting up a Not For Profit Organization in India

Srisattva Report

Introduction

In India, social service, charity, work towards upliftment for a social cause can be done in an organized and channelised manner. The social service can be done through a proper reporting and transparent system involving various individuals and Companies, thereby making the system trustworthy and giving donors the delight for their donation for the cause.

The most common structure for providing social benefit is forming a Non-Profit Organization such as Trust, Society and Section 8 Companies. The focus of such a structured organization is social cause and not profit.

There is no fit for all or fit for specific structure for specific cause. The preference depends on how the founders of the social organization would like to see their not for profit organization grow into and the types of benefits they would prefer their organization to receive.

Difference between Trust, Society and Section 8 Companies

SI.NO	Basis	Trust	Society	Section 8 Company
1	Statute/ Legislation	Trust is governed by the Indian Trust Act, 1882.	Societies are governed by the Societies Registration Act 1860. Many states, however, have variants on the Act	Section 8 Companies are governed by the Indian Companies Act, 2013.
2	Prime Object/ Activities	For providing social benefit i.e. Non-Profit Organization's surplus, cannot be utilized in any other purpose other than fulfilling its objects	Same as Trust	Same as Trust & Society
3	Nature of Control	One Man Control i.e., settlor / founder trustee / board of trustees	Decisions are made by voting power	Governed by the Board of Directors
4.	Jurisdiction	Trusts are registered under the jurisdiction of Deputy Registrar / Trusts are registered under the jurisdiction of Deputy Registrar / Charity commissioner of the relevant area	The power to register a society lies in the hand of Registrar of societies.	The power to register a section 8 Company lies with the Regional Director & Registrar of Companies of concerned state

SI.NO	Basis	Trust	Society	Section 8 Company
5	Main documents	Trust Deed	Memorandum Of Association & Bye Laws	Memorandum Of Association and Article of Association
6	Stamp Duty	Trust Deed are executed on non-judicial stamp paper (amount varies from state to state)	No requirement of stamp papers for Memorandum & Bye laws of society	No requirement of stamp papers for Memorandum & Bye laws of society
7	Minimum Requirement	At least two trustees are required to register a public charitable trust In general. Indian citizens serve as trustees, although there is no prohibition against non-natural legal persons or foreigners serving in this capacity.	Minimum Seven members are required for formation of state level society and 8 members in case different states members are involved.	Minimum 2 directors and shareholders. Directors and Shareholders can be the same person.
8.	Area of Activities	Applicable to whole of over India no matter from which state trust deed belongs	In case society is formed within particular state with 7 or more members then within that particulars state it is applicable, for all over India with different state 8 or more members has to be present.	As registered by central processing centre (CPC), applicable all over India
9.	Micro Finance Activities	Cannot do	Cannot do	Can undertake micro finance activities
10	Annual compliances/ documentations	There are no requirement for any annual compliances	Societies must file annually, list of names, occupations and address of the managing committee members.	The company must file the annual returns AOC-4, MGT-7 etc and accounts with the ROC.

SI.NO	Basis	Trust	Society	Section 8 Company
11	Registration with Income Tax u/s. 12A & 80G as NGO	At par with society & Section 8 Company.	At par with trust & Section 8 Company	At par with trust & Society.
12	Borrowings	Trusts can borrow only from the Author	Can borrow only from its members	Can borrow from members/ shareholders and also from banks & institutions
13	From the point of view of Grant of subsidy by the government	Moderately preferred	Moderately preferred	Most preferred
14	Possibility of Amendment	Can be done through supplementary trust deed	Relatively difficult as both the memorandum & bye laws has to be amended	Restricted without approval of CG
15	From the point of view of Foreign Contribution Regulation Act, (FCRA) registration	Moderately preferred	Moderately preferred	Most preferred
16	Foreign Direct Investment	FDI in Trusts other than VCF is not permitted.	Not Permitted	Not Permitted
17	Cost efficiency & Transparency	Low Cost & Less Transparent	Low Cost & Less Transparent	Comparatively Higher Cost & More Transparent
18	Winding- Up	Generally irrevocable, hence cannot be easily wound but, as per the trust deed can be wound up.	Can be wound up if 3/5th members so desire.	Can be wound up if shareholders desire (in AGM)



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Srisattva Group

Our Founders set up in Srisattva in 2009 with the sole **Purpose** to **Help Businesses Grow their Valuation**.

Our Vision: To become the preferred partner for global businesses by providing deep insights for decision making, implementing business models and processes towards faster growth.

Our Mission: We partner with our customers to together create and deliver business and process solutions that helps them achieve exponential growth in business valuation.

Speciality Services:

- Monthly Book-Keeping
- Monthly Book Closure
- Virtual CFO Support
- Short Term Accounting Support
- One-time Accounting Support
- R2R – Record to Report
- AP Management
- AR Management
- Monthly MIS Reports
- Valuation Report
- Health Check
- Due Diligence
- Internal Audit
- Statutory Registrations
- Statutory Filings
- Audit Coordination
- Audit Paperwork Support
- SOC Audit Support