

Comparative analysis between Section 8 Company and a Trust

Parameters	Section 8 Company	Trust
Legal Structure	A company formed under Section 8 of the Companies Act, 2013 ("CA 2013") for charitable or religious purposes.	A legal arrangement/planning created through a Trust Deed as per the Indian Trusts Act, 1882 (or State-specific Acts wherever applicable).
Registration	Registered with the Registrar of Companies (RoC) under the Ministry of Corporate Affairs (MCA)	Registered with the Sub-Registrar or Charity Commissioner, depending on the state where it is proposed to be registered.
Governing Body	Board of Directors (minimum 2 for private company or 3 for public company)	Trustees, as per the duly executed Trust Deed.
Regulation and Compliance	Regulated by MCA through RoC and Regional Directors (RDs)	Few compliance requirements. (Totally depends upon state specific laws)
Decision-Making Process	Decisions are taken in the meetings of the Board of Directors of the Company, which ensures clear accountability and transparency.	Trustees have significant autonomy in decision making process

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Flexibility in Operations	Operates as per the provisions of the CA 2013 and the charter documents i.e MoA & AoA.	More flexible with internal management, but lacks the structured processes required for scaling up operations.
Ownership of Assets	Being a separate legal entity assets are held by the company and must be used only for purposes as provided in its Charter Documents.	Assets are held by the Trust. Trustees have more control, but they are bound by the Trust Deed's terms & conditions.
Profit Distribution	As per CA 2013 a section 8 company is prohibited from distributing profits to its members. All the profits are reinvested/ploughed back in furtherance of its objects.	No profit distribution, but trustees have the discretion to allocate funds as per the T&C of Trust Deed.
Tax Benefits	Eligible for 12A and 80G registrations under the income tax Act, 1961 for exemptions. Further, there is easier access to CSR funding from corporates.	Also eligible for 12A and 80G, however considering the less regulated legal structure it may face challenges in CSR donations from corporates.
Public Perception & Credibility	Considered more transparent and accountable, gaining trust from donors, funders, investors and the government.	Seen as a traditional structure, but credibility often depends on the reputation of trustees. May face skepticism for less transparency.

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Funding & Grants	Easier to attract funding from government bodies, international organizations, and CSR contributions from corporates. Can issue equity and raise loans (with prescribed restrictions/limitations under the CA 2013 and its applicable rules).	Mainly relies on donations and grants. May face limitations in accessing government and international funding due to lesser perceived transparency.
Accountability & Transparency	Requires annual audits, annual returns, and multiple other filings to be made with appropriate authorities. Further this form business organisation ensures high accountability to its stakeholders and the government.	Lesser stringent audits and compliance norms. May lack transparency and accountability in financial matters considering the centralised power with trustees.
Succession Planning	More rigid due to legal requirements. Any kind of changes in the Company requires regulatory filings and approvals, ensuring governance continuity.	Flexible, but heavily depends on the T & C of the Trust Deed. Further the succession of trustees is based on the Deed's stipulations.
Dissolution	Upon dissolution, the assets of the Section 8 company must be transferred to another Section 8 company with similar objectives or to the Insolvency and Bankruptcy Fund formed under section 224 of the Insolvency and Bankruptcy Code, 2016.	Upon dissolution, assets can be transferred as per the Trust Deed.

Parameters	Section 8 Company	Trust
Suitability for Professional NGO Operations	Offers a professional corporate structure, making it ideal for organizations that plan to hire employees, professionals (e.g., lawyers, social workers), and execute formal long term projects.	Suitable for smaller, volunteer-driven operations that are more community-based and require less formal management.
International Operations	Suitable for international partnerships and grants resulting from stringent regulations, transparency, and a corporate framework. Easier to comply with foreign donation regulations (FCRA).	May face challenges in international operations due to the informal governance structure, making compliance with foreign donation laws more complex.

Conclusion :

In choosing between a Section 8 Company and a Trust, it's essential to align the legal form with the organisation's vision for impact, scale, and operational needs. Each structure offers unique advantages. Selecting the appropriate form sets a strong foundation for effective governance, sustained growth, and meaningful impact in society.



SIDDHANT DHYANI & ASSOCIATES
PRACTICING COMPANY SECRETARIES

THANK YOU

For further inquiries or personalized assistance, feel free to reach out to Siddhant Dhyani & Associates (SDA) at:



info@complianceatsda.com or Siddhantdhyanipcs@gmail.com



+91-8527912311

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