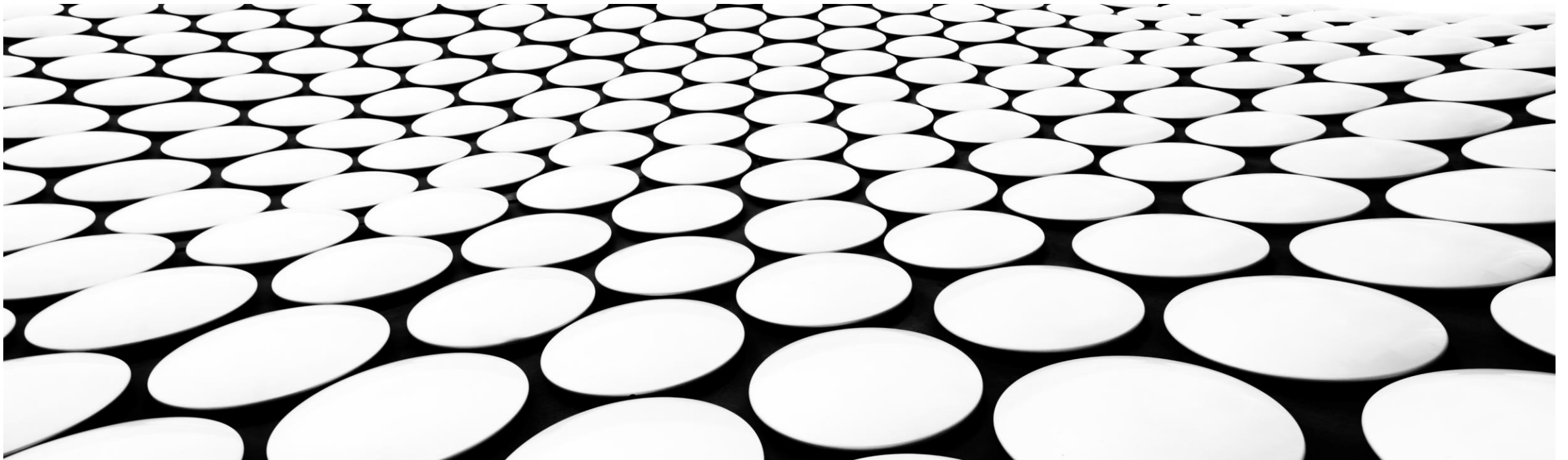

BEST PRACTICES ON GLOBAL LEGAL STRUCTURE OF NOT FOR PROFIT ORGANIZATIONS

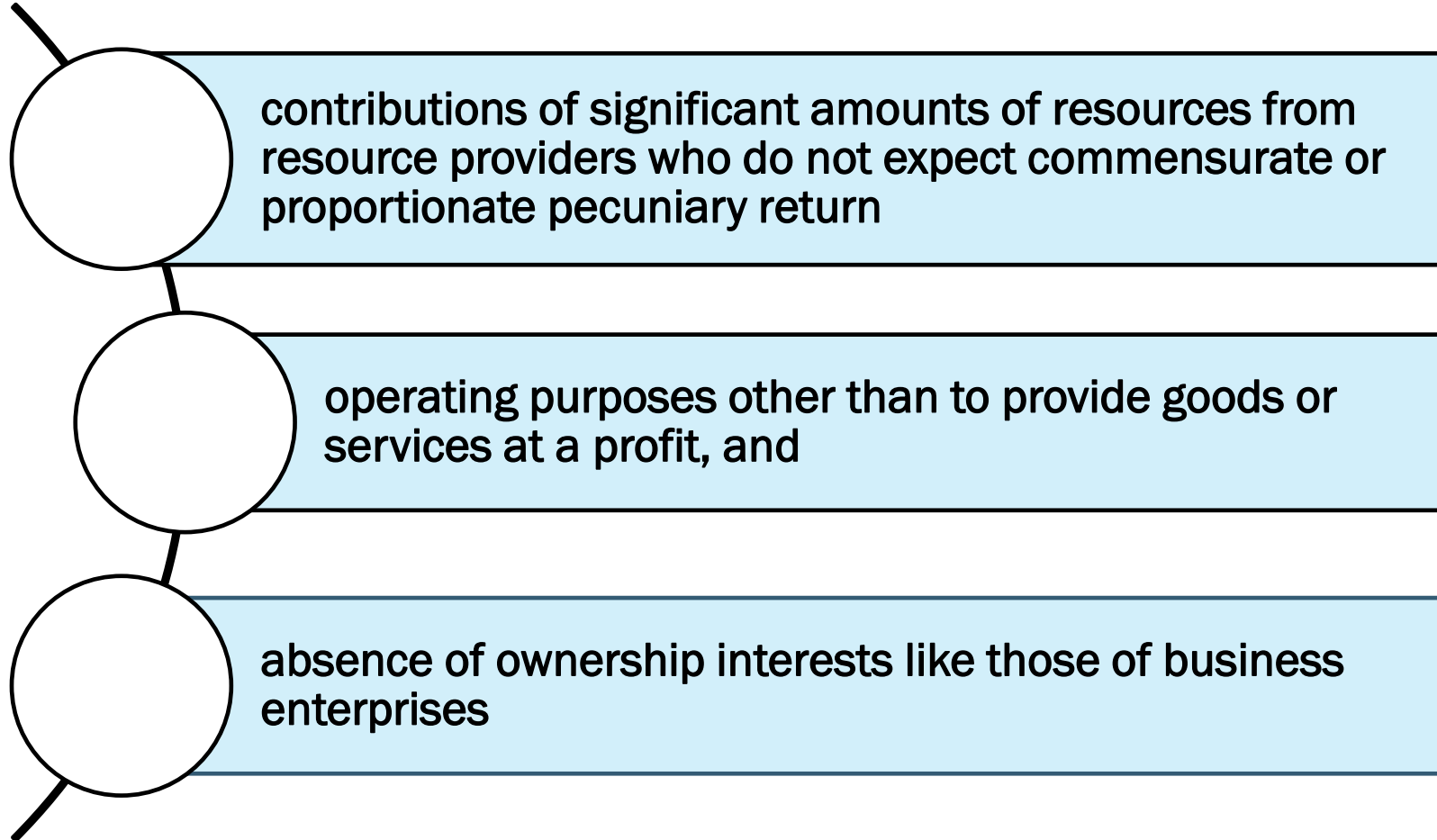
BY B D CHATTERJEE *FCA, ACMA, ACS, DIP (IFR) ACCA – UNITED KINGDOM*





GLOBAL LEGAL STRUCTURE OF NOT FOR PROFIT ORGANIZATIONS

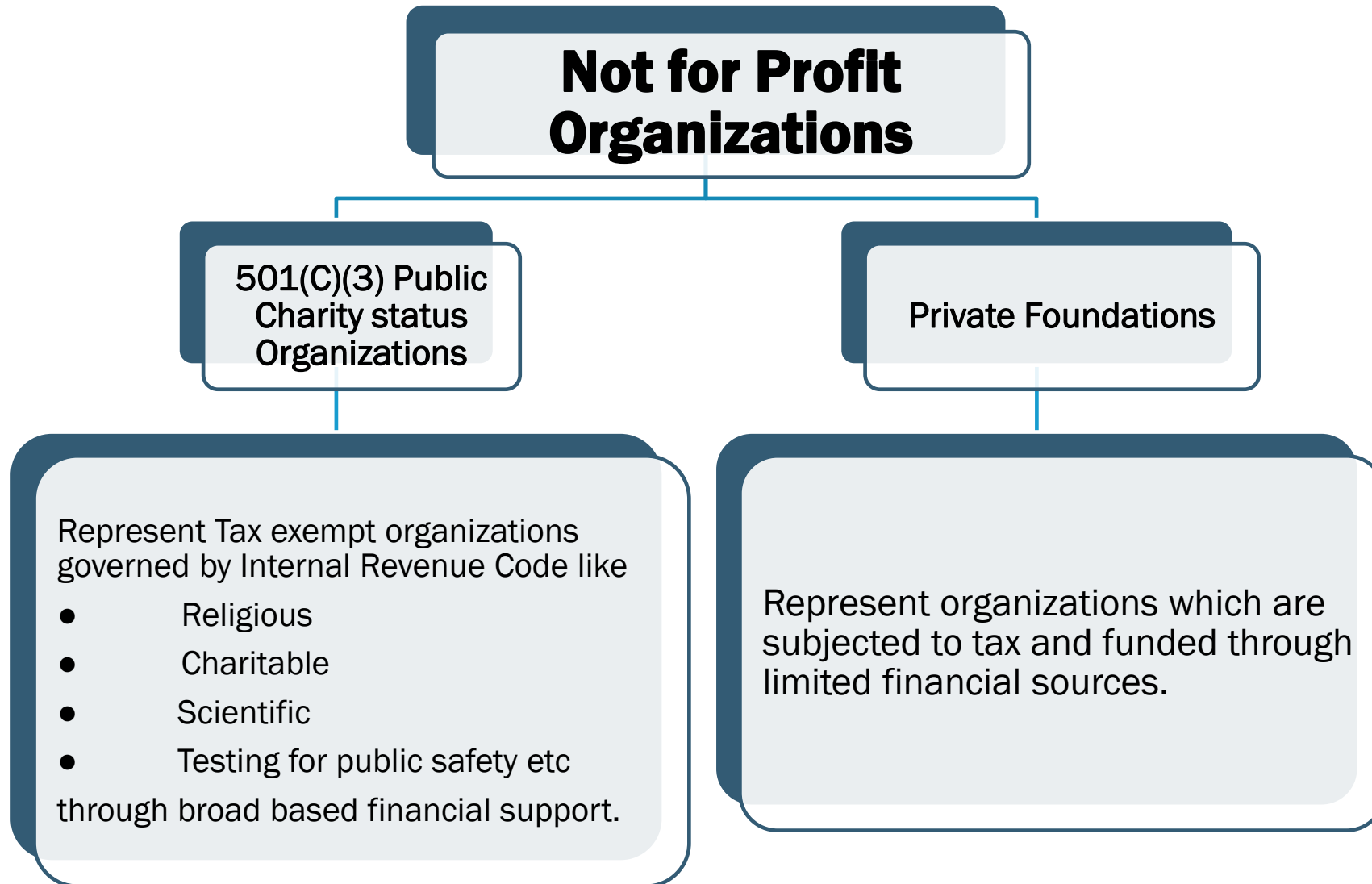
WHAT IS A NOT FOR PROFIT ORGANIZATION?



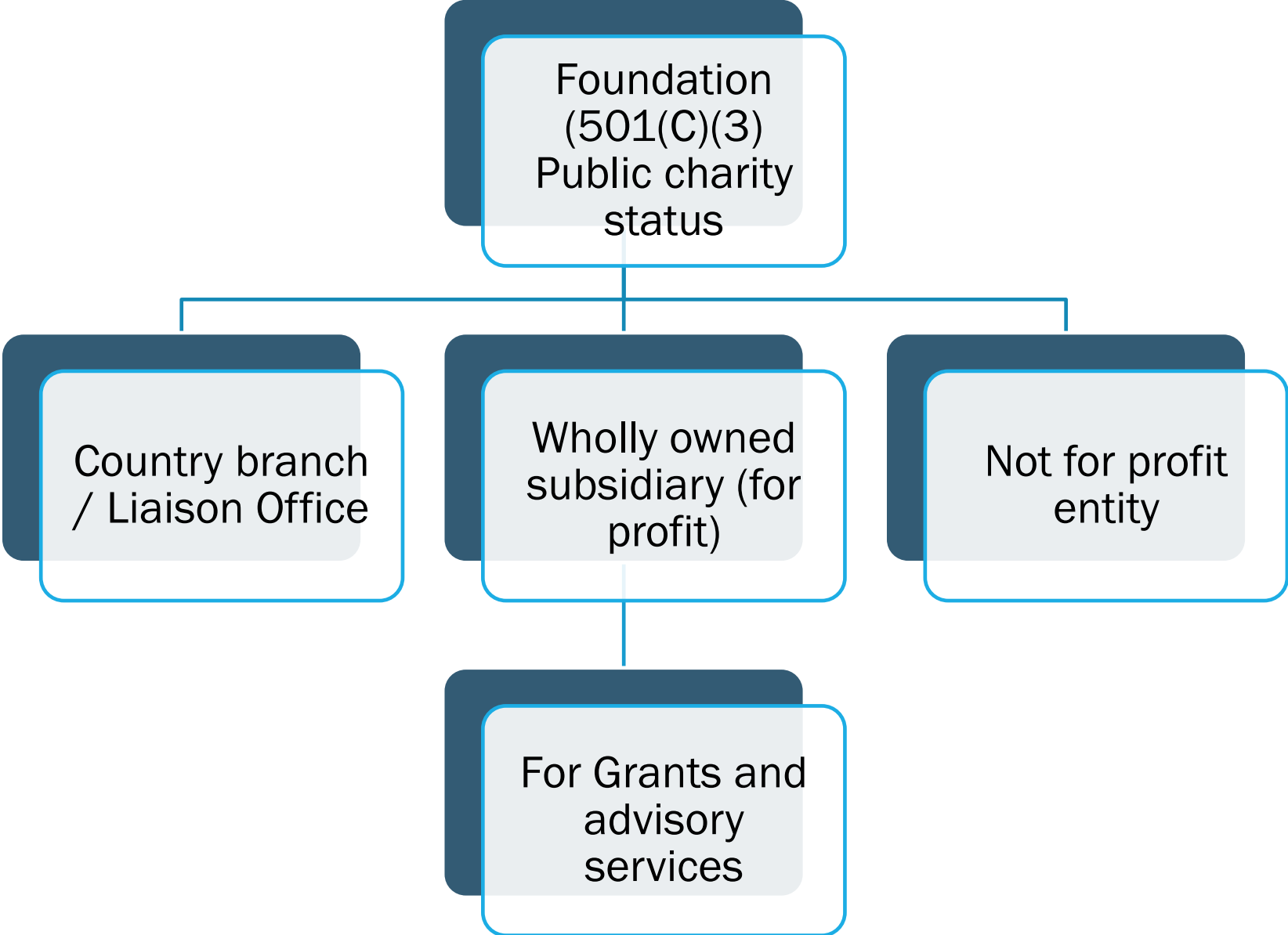
EXAMPLES OF NOT FOR PROFIT ORGANIZATIONS

- Civic and community organizations
- Colleges and universities
- Elementary and secondary schools
- Crowd funding organizations
- Libraries
- Other cultural organizations
- Performing arts organizations
- Private and community foundations
- Professional associations
- Public broadcasting stations
- Research and scientific organizations
- Social and country clubs
- Trade associations
- Voluntary health and welfare organizations

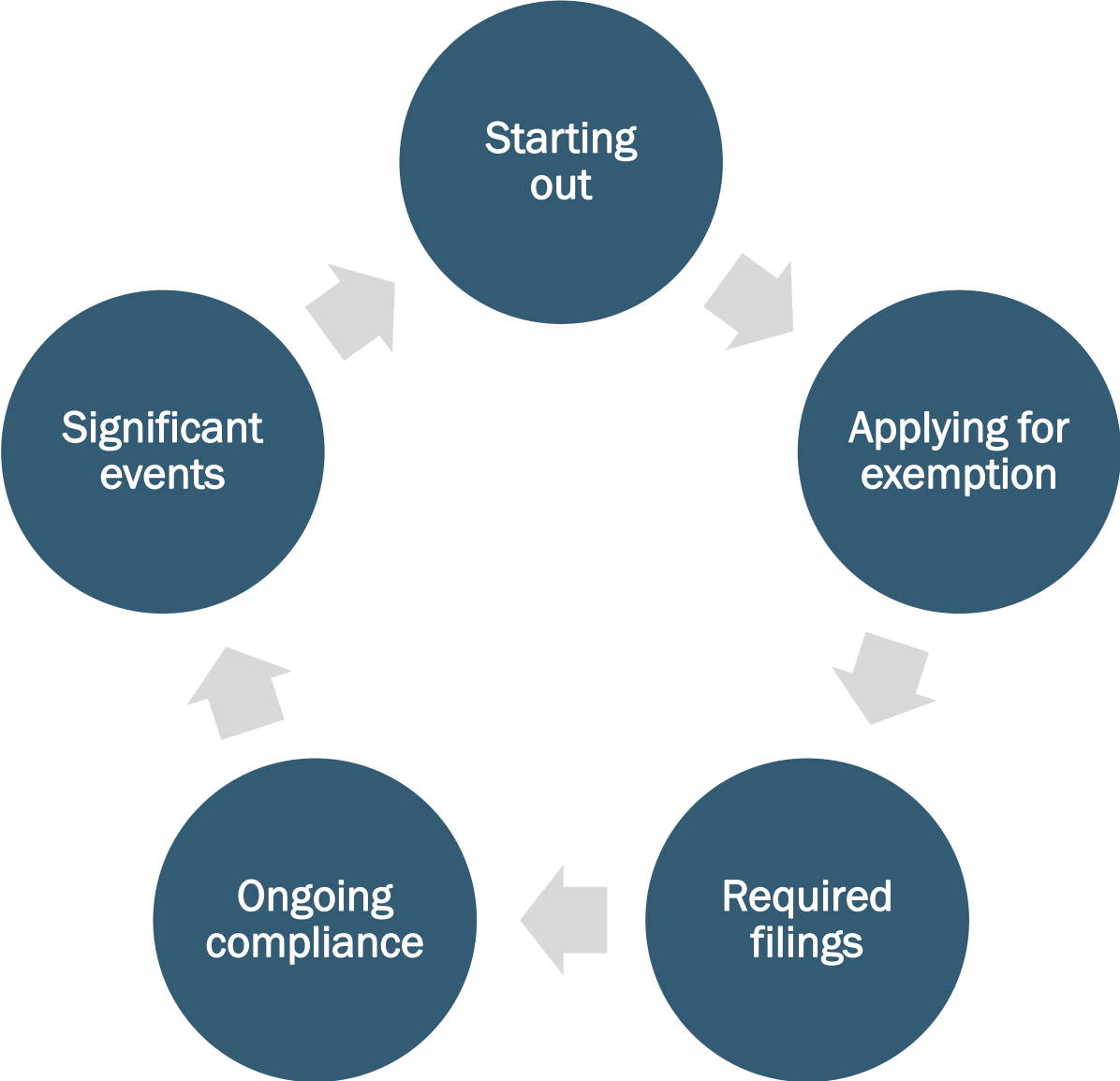
NOT FOR PROFIT ORGANIZATIONS IN UNITED STATES



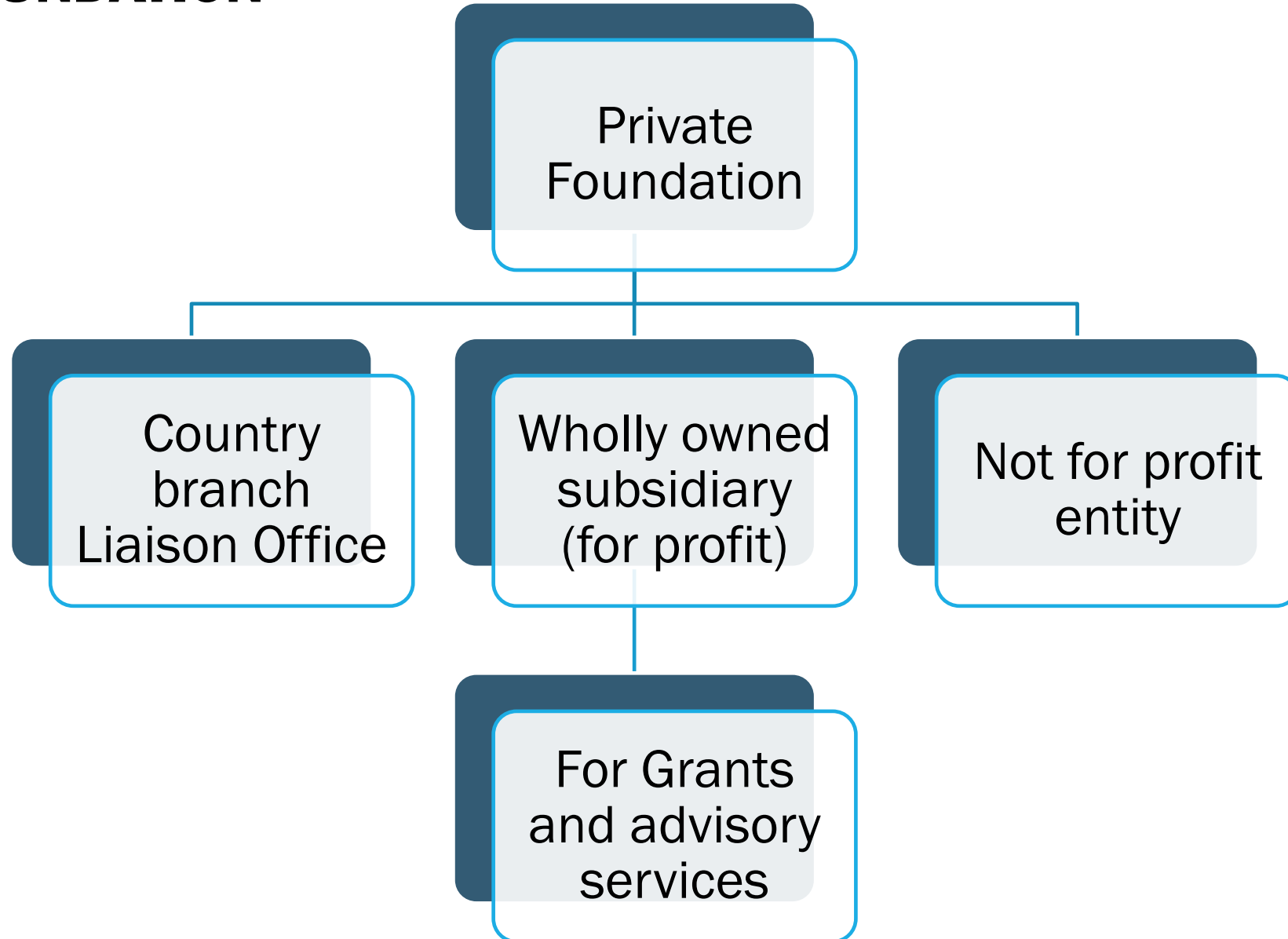
FOUNDATION 501(C)(3) PUBLIC CHARITY STATUS



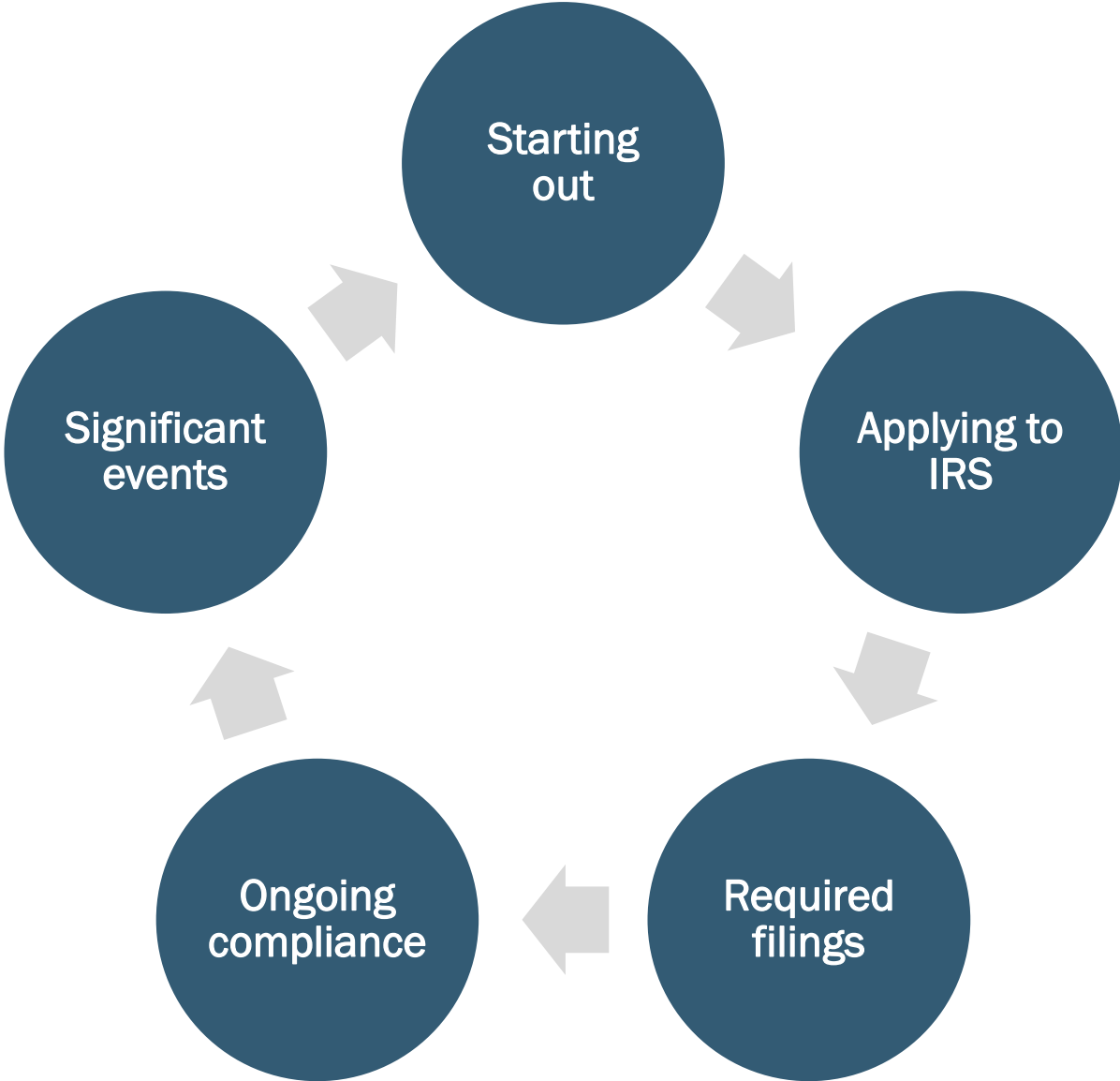
FOUNDATION 501(C)(3) PUBLIC CHARITY STATUS



PRIVATE FOUNDATION



PRIVATE FOUNDATION



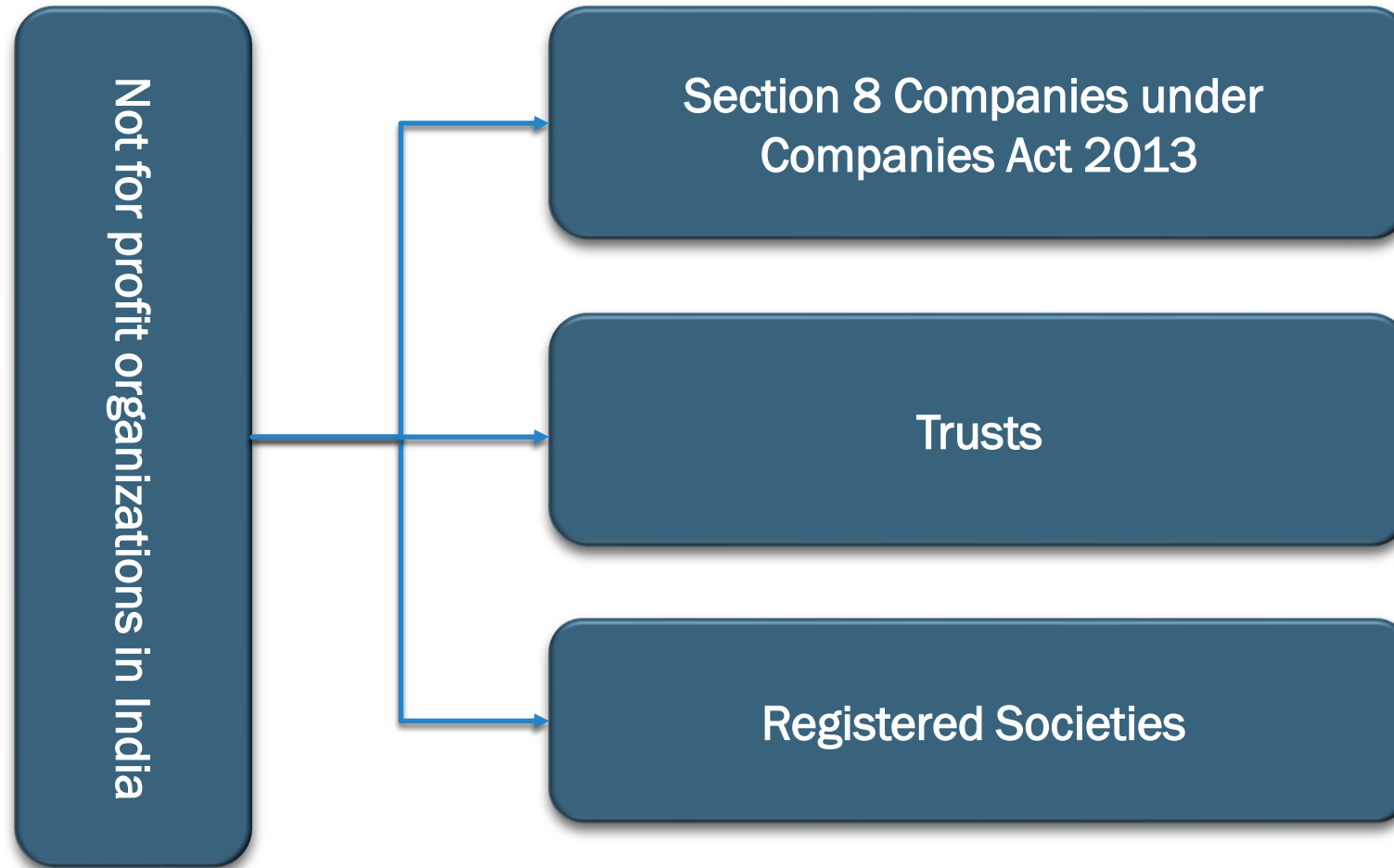
COMPARISON BETWEEN PUBLIC CHARITY STATUS AND PRIVATE FOUNDATION

When an entity qualifies as a tax-exempt organization, the IRS presumes it's a private foundation unless it can show that it's a public charity.

The main differences are as under:

- Firstly, it is important where the money comes from. Generally, a public charity has a broad base of support while a private foundation has very limited sources of support.
- There are also different tax rules – so, for example, public foundations are subject to excise taxes that aren't imposed on public charities.

CLASSIFICATION OF NOT FOR PROFIT ORGANIZATIONS IN INDIA



SECTION 8 COMPANIES (NOT FOR PROFIT)

- Section 8 company is a Company incorporated under the Section 8 of the Companies Act 2013 with the charitable objective.
- The main objectives of the Section 8 Companies are to promote fields like arts, science, commerce, sports, education, religion, charity etc.
- The profit raised by the Company is used to promote the main objective of the Company.

SECTION 8 COMPANIES – PRINCIPAL FEATURES

Item	Narrative
Separate legal entity	In a Section 8 Company, the company and its members have completely distinctive identities.
No dividend	Members of the Company don't get any dividend.
Profits	Any kind of Profit or incomes of the Company is applied only for the promotion of the objects of the Company.
Share holders and directors	The Company must have at least 2 shareholders. At least 2 Directors are essential. The Directors and the Shareholders can be the same person.
Share capital	No minimum share capital required. The necessary funds are brought in the form of donations, subscriptions from members or the general public.
Limited Liability	In simple words, in case any liability rises, the members of the company are not personally affected; members are liable for unpaid shares held by them and not more than that.
Transferability of ownership	Shares and other interest of the members are easily transferable as provided by the Articles of Association of the company.

TRUSTS

Generally, organizations that are classified *as Trusts* are those that

- are churches, hospitals, qualified medical research organizations affiliated with hospitals, schools, colleges and universities,
- have an active program of fundraising and receive contributions from many sources, including the general public, governmental agencies, corporations, private foundations or other public charities,
- receive income from the conduct of activities in furtherance of the organization's exempt purposes, or
- actively function in a supporting relationship to one or more existing public charities.

REGISTERED SOCIETIES

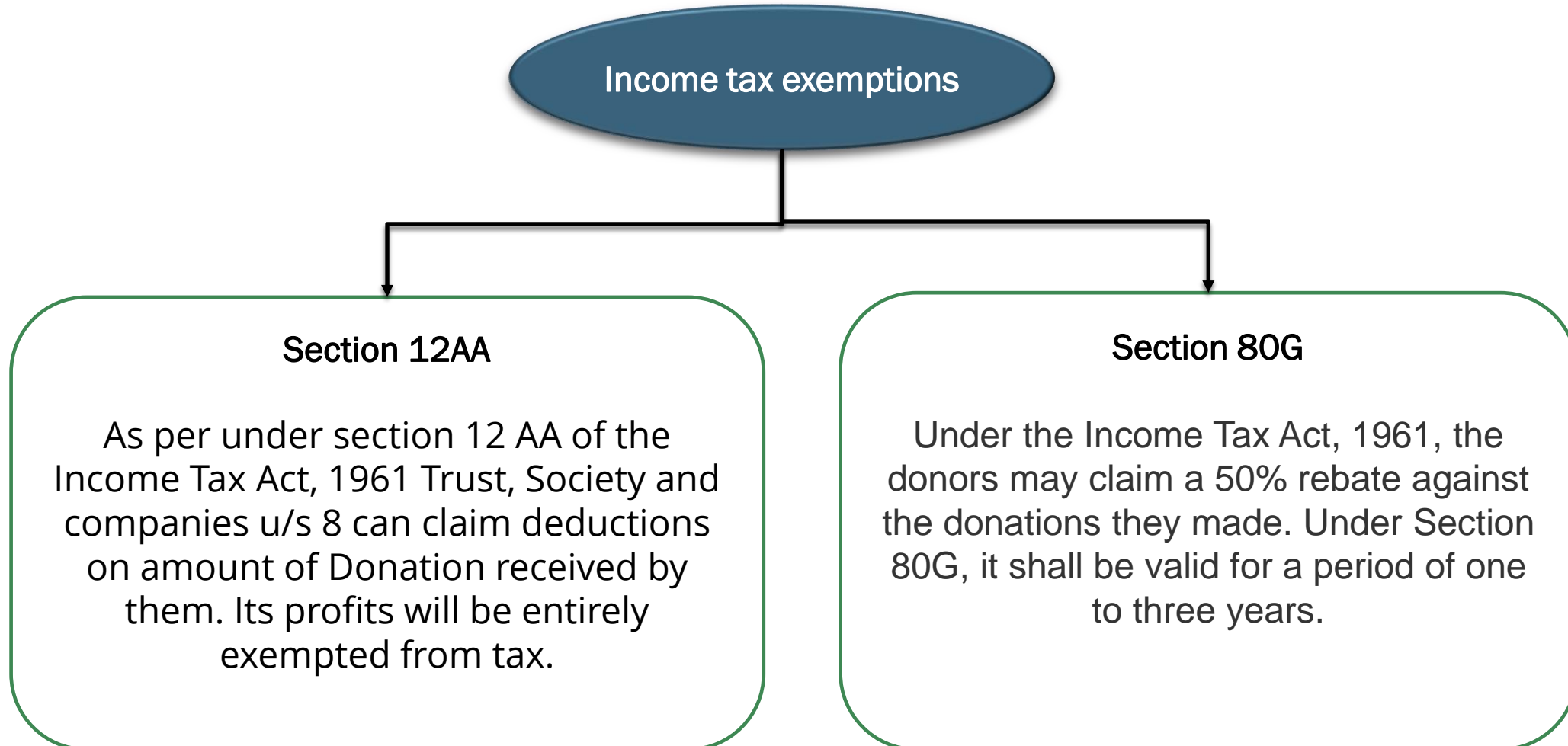
According to section 20 of the Societies Registration Act, 1860, the following societies can be registered:

- charitable societies,
- military orphan funds
- societies established for the promotion of literature, science or fine arts, etc.

COMPARISON - TRUSTS AND REGISTERED SOCIETIES

Item	Trusts	Registered Societies
Legislation	The Indian Trusts Act 1882.	Societies Registration Act, 1860.
Meaning	A legal relationship, in which author (first party) assigns property to the trustee (second party) for the benefit of the beneficiary (third party).	A society is an organized group of persons, who are joined together for fulfilling any purpose relating to literature, science or charity.
Office bearers	Minimum two Trustees	A minimum of seven managing committee members
Main instrument	Trust deed, containing: aims and objects of the trust, minimum and maximum number of trustees, how other trustees may be appointed or removed, how the trust should be managed etc	The memorandum of association and rules and regulations.

INCOME TAX EXEMPTIONS - TRUSTS, SOCIETIES AND SECTION 8 COMPANIES



FOREIGN CONTRIBUTION AND REGULATION ACT (FCRA)

A Trust, Society and a Section 8 Company can register under FCRA to receive funds from foreign source.

- It needs to open a dedicated account in State Bank of India for this purpose
- It needs to highlight activities for which foreign funds are required.
- The board members need to be of Indian origin to run the operations of the organization.



THANK YOU!