

STARTUPS

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INTRODUCTION

Of late, startups have emerged as a fast-growing business model. This Article will deal with the evolution of Startup in India, the Startups India Policy, developments initiated in various States to encourage Startups.

A startup company is an entrepreneurial venture which is typically an emerging, fast growing business that aims to solve an unmet need by developing a viable business model around an innovative product, service, processor a platform. A startup is usually a company designed to effectively develop and validate a scalable business model.

Start-ups may have high rates of failure, but the minority of successes includes companies that have become large and influential.

EVOLUTION

Startups companies can come in all forms and sizes. Some of the critical tasks are to build a co-founding team to secure key or complementary skills, know-how, financial resources, and other elements to build the product for the target market.

Usually, a startup will begin by building a first minimum viable product (MVP), a prototype, to validate the founders and develop the new ideas or business concepts. In addition, startup founders do research to deepen their understanding of the ideas, technologies or business concepts and their communication potential.

Business models for startups are generally found via a “bottom-up” or “top-down” approach. A company may cease to be a startup as if passes various mile stones, such as becoming publicly traded on the stock market on an Initial Public Offer (IPO), or ceasing to exist as an independent entity via a merger or acquisition. Companies may also fail and cease to operate altogether, an outcome that is very likely for startups, given that they are developing disruptive innovation which may not function as expected and for which there may not be market demand, even when the product or service is finally developed.

Objectives

The following were the objectives of the government for launching the Startup India scheme:

1. Attracting more innovation and entrepreneurs
2. Job creation
3. Boost to Make in India initiative and foreign exchange earnings in the long run
4. Simplification and hand-holding
5. Funding support and incentive



In our opinion, to do all the above in the long run, the government should focus more on the simplification of tax laws rather than on further complicating them. It should look at lesser discretionary powers for the government machinery and system-driven online approvals registrations, thereby creating a more conducive environment for industry and commerce. A conducive business environment and ease of doing business shall automatically boost startups and industries in all sectors, which will fulfill all the above stated objectives of the government. Some of the steps that the government should, in our opinion, take in this budget are as follows:

- Lesser exemption and rather overall reduced corporate and individual tax rates, which would lead to a wider tax base and better compliance
- The startup registration process, if any, should be simple and process-driven, and not based on the discretionary powers of any entity, government or private
- The convergence of MAT and Income Tax, somewhere mid-way, which would simplify things to a great extent

On funding support, we feel that we already have banks and financial institutions for debt financing. Equity financing should be left open to market forces, with the government only arranging for a conducive and enabling environment for businesses to grow on their own, and not by interfering in things in which it does not have any expertise.

Remember, the objective of this government is 'Maximum Governance' and 'Minimum Government'.

STARTUP INDIA POLICY

Startup policies;

- Government initiatives
- Exemptions to Startups
- Tax benefits
- Cooling period for startups

Startup India campaign is based on an action plan aimed at promoting bank financing for startup ventures to boost entrepreneurship and encourage startups with jobs creation. The campaign was first announced by PM Narendra Modi in his 15 August 2015 address from the Red-Fort & launched the Startup India scheme on the 16th of January, 2016.

To bring uniformity in the identified enterprises, an entity shall be considered as a 'Startup' -

- Up to five years from the date of its incorporation/registration,
- If its turnover for any of the financial years has not exceeds Rupees 25 crore , and
- It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;
- Any such entity formed by splitting up or reconstruction of a business already existence shall not be considered in 'Startup'.



- Further, in order to obtain tax benefits a startup so identified under the above definition shall be **required to obtain a certificate** of an eligible business from the Inter-Ministerial Board of Certification consisting of;



KEY POINT

- Single Window Clearance even with the help of a mobile application
- 10,000 crore fund or funds
- Reduction in patent registration fee
- Modified and more friendly Bankruptcy Code to ensure 90-day exit window
- Freedom from mystifying inspections for 3 years
- Freedom from capital gain tax for 3 years
- Freedom from tax in profits for 3 years
- Self-certification compliance
- Innovation hub under Atal innovation mission
- Starting with 5 lakh schools to target 10 lakh children for innovation programme
- New schemes to provided IPR protection to startups and new firms
- Encourage entrepreneurship
- Stand India across the world as a startup hub.

PROCESS OF RECOGNITION OF STARTUP

The process of recognition as a 'startup' shall be through mobile App/portal of the Department of Industrial Policy and Promotion.



Startup will be required to submit a simple application with any of following documents:

1. A recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any established in a post-graduate college in India; or
2. A letter of support by any incubator which is funded (in relation to the project) from Government of India or any State Government as part of any specified scheme to promote innovation; or
3. A recommendation (with regard to innovation nature of business), in a format specified by Department of Industrial Policy and Promotion, from any incubator recognized by Government of India; or
4. A letter of funding of not less than 20% in Equity by any incubation Fund/Angel Fund/Private Equity Fund /Accelerator/Angel Network duly registered with SEBI that endorses innovation nature of the business. Or
5. A letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or
6. A patent filed and published in the journal by the Indian Patent Office in areas affiliated with the nature of business being promoted.

Department of industrial policy and promotion may, until such mobile app/portal is launched, make alternative arrangement of recognized a 'startup'.

Once such application with relevant document is uploading the document or uploading any other document or a forged document, the concerned applicant shall be liable to a fine which shall be fifty percent of paid up capital of the Startup but not less than Rupees 25,000.

A startup is an entity that is headquartered in India which was opened less than seven years ago and has an annual turnover less than 25 crore. The government has already launched **iMADE**, an app development platform aimed at producing 1, 00,000 Apps and **PMMY**, the **MUDRA Bank**, a new institution setup for development and refinancing activities relating to micro units a refinance Fund of 200 billion.

EXEMPTION FOR STARTUPS

To promote growth and help Indian economy, many benefits are being given to entrepreneurs establishing startups.

1. Simple process

Government of India has launched a mobile app and a website for easy registration for startups. Anyone interested in setting up a startup can fill up a simple form on the website and uploaded certain documents. The entire process is completely online.

2. Reduction in cost

The government also provides lists of facilitators of patents and trademarks. They will provide high quality intellectual Property Right Services including fast examination of patents at lower fees. The government will bear all facilitator fees and the startup will bear only the statutory fees. They will enjoy 80% reduction in cost of filling Patents.



3. Easy access to funds

10,000 crore rupees fund is setup by government to provided funds to the startups as venture capital. The government is also giving guarantee to the lenders to encourage banks and other financial institutions for providing venture capital.

4. Tax holiday for 3 years

Startups will be exempted from income tax for 3 years provided they get a certification from Inter-Ministerial Board (IMB).

5. Apply for tenders

Startups can apply for government tenders. They are exempted from the “prior experience/turnover” criteria application for normal companies answering to government tenders.

6. R&D facilities

Seven new Research Parks will be set up to provided facilities to startups in the R&D sectors.

7. No-time consuming compliances

Various compliances have been simplified for startups to save time and money. Startups shall be self-certify compliance (through the startup mobile app) with 9 labour and 3 environment laws.

8. Tax saving for investors

People investing their capital gains in the venture funds setup by government will get exemption from capital gains. This will help startups to attract more investors.

9. Choose your investor

The startups will have an option to choose between the VEs, giving them the liberty to choose their investors.

10. Easy exit

In case of exit, a startup can close its business within 90 days from the date of application of winding up

11. Meet other entrepreneurs

Government has proposed to hold 2 startup fests annually and internationally to enable the various stakeholders of a startups to meet. This will provide huge networking opportunities.

Tax Exemptions for the Startups, Effective from 2017-18

Following tax exemptions for the startups had been introduced that was made effective from 2017-18. The proposed incentives and exemptions are:

1. **Under section 80-IAC** -- the startups incorporated after April 1,2016 is eligible for getting 100% tax rebate on profit for a period of three years. The startups recognized under the startup India policy can now claim tax benefits in three years out of the first seven years under section 80-IAC of the income –tax act, 1961. Also, the annual turnover must not exceed RS.25 crores in any financial year up to 31st march 2021.
2. **Minimum Alternative Tax** --The startups have to pay Minimum Alternate Tax (MAT) at 18.5% along with the applicable surcharge and cess. The FM has assured to provide MAT exemptions for the first five years In case the startup fails to make any profit.



3. **LTCG** --Exemptions have been made against capital gains. Long term capital gain (LTCG) will be invested by the government's special funds. The investment may go up to INR 50 Lakh and the exemption will be applied for three years.
4. If the **individual holds 50%** equity the company may utilize the invested amount for buying assets before the due date of filling the return,
5. **Tax Benefits** --The domestic companies who hold turnover less than INR 5 crore in the F.Y. 2014-15 will be liable for 29% tax along surcharge and other cess.
6. **Different Tax Rate** -- The Finance Minister has also proposed different taxes for the new domestic manufacturing companies that have been setup on or after 1st march, 2016. Such companies will be taxed at 25% plus with cess and surcharge. The tax is proposed on the condition that the company does not claim any incentive under profit and investment.
7. **Forward losses** -- In order to carry forward losses, only the founder(s) need to hold shares, compared to the earlier requirement that the startups must have a continuous holding of 51% voting rights in order to carry forward losses.

Benefits/Exemption to Startups under Companies Act, 2013

1. By Notification N. GSR.583(E) dated June13, 2017 an exemption has been inserted in clause 40 of section 2 of the Company Act, 2013 which provided the **definition of a start-up** or "Start-up company"
It states that "For the purposes of this Act, the term "Start-Up" or "Startup-Up of Company" means a private company incorporated under the Companies Act, 2013(18 of 2013) or the companies Act, 1956(1 of 1956) and recognized as start-up in accordance with the notification issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and industry".
2. The companies (Acceptance and Deposit) Rule, 2014 have been amended to provide that an amount of **25 lakhs rupees or more** received by a Start-up company, by way of a convertible note (convertible into equity shares and repayable within a period not exceeding five years from the date of issue) in a single tranche, from a person **shall not be treated as a deposit**.
3. The provisions of clauses (a) to (e) of **section 73 of the Act shall not apply** to a start-up company for five years from the date of incorporation.
4. The upper limit on the acceptance of the deposits has been **enhanced to 35%** of the net worth instead of earlier 25%;
5. Start-ups are **allowed to issue (ESOP)** Employee Stock Option to promoters working as employees;
6. The **limits with regard to sweat equity** that can be issued by a start-up company from 25% of paid-up capital to 50% of the paid-up capital;



7. The **annual return** of a start-up company may be **signed by** the company secretary, or where there is no company secretary, by the director of the company.
8. For start-ups, **convening at least one meeting** of the board of directors in each half of a calendar year with the gap between the two meetings of not less than Ninety days is sufficient to meet the requirement of section 173(5) of the Act.

CONCLUSION

Indian government is also taking several steps to build an environment which is suitable for startups, since small businesses can play a very important role to develop and boost Indian economy in the future. In the Union Budget of 2015, government has established a process or a mechanism known as Self Employment and Talent Utilization (SETU) to support all the aspects of startups right from their seed financing stage to their growth stage. Government is also setting up 'innovation labs' at various places which are similar to that of 'incubation centers' in large national and foreign universities. It is also anticipated that government may roll out a Rs. 2000 crore fund to provide seed capital to startups related to IT and biotechnology.

Considering the importance of role that the Indian startups are all set to play in the growth of Indian economy, the amount of income and the huge number of jobs that can be created by facilitating startups, even the market regulator Securities and Exchange Board of India (SEBI) has also relaxed some rules to facilitate the flow of funds from the market to the startups.

Hence, taking into consideration all the above developments, it can be concluded that indigenous startups will not only make the lives of the people easier through their affordable and convenient services but will also act as a major booster for the development and the progress of the Indian economy.

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