



Wadhwa & Shah

Start Ups

About taxation & other benefits

#Startupindia

The Startup India initiative was launched by the government of India in 2016 with the aim of creating a strong ecosystem that is conducive for the growth of startups. Ever since, it has been a key area of focus for the government. Under this initiative, eligible startups in India can avail various regulatory and tax benefits, and have access to various funding options if they fulfil certain criteria. This article attempts to discuss the tax and regulatory incentives available to Startups.

Chapter 1 - Are you a start-up?

The first question, before we attempt to understand the tax and regulatory framework of a Start-up is – What is a Start-up? The Indian government have been evolving the definition of an “Eligible Start-up” for over a decade, i.e., a Start-up that is eligible to claim regulatory and tax incentives. An entity is considered a “Start-up” only if it is incorporated as a Private Limited company (under the Companies Act, 2013), or registered as a Partnership Firm (under the Partnership Act) or a Limited Liability partnership (under the Limited Liability Partnership Act) in India, and fulfils the following conditions:

- **Company age** - Period of existence & operations **not exceeding 10 years** from the date of Incorporation.
- **Company type** – Incorporated as a Private Limited Company, a registered Partnership Firms or LLP.
- **Annual turnover** – Company should have an annual turnover **not exceeding Rs100 Cr** for any of the Financial Years since its incorporation.
- **Original entity** – Entity should not be formed by splitting up or reconstructing an already existing business.
- **Innovative and scalable** – Companies should work towards development or improvement of a product, process or service &/or have scalable business model for creation of wealth and employment.

Chapter 2 – Recognition & Benefits

The benefits to the start-ups follows after there are certain recognition standards met by the respective start-ups in India. The Government of India has been very supportive for the start-ups and it understand the initial working capital issues which each start-up faces. It also understands the value of an idea of the start-up and its contribution towards the enterprise value of the business. Being not aware with such benefits, a start-up may initially have certain questions which we have tried to answer below.

Who recognizes Start-ups in India?

The Department for Promotion of Industry and International Trade (“DPIIT”) under Ministry of Commerce and Industry recognises start-ups in India. After taking applications, calling for such documents or information and making such enquiries recognises the eligible start-up.

What are the benefits?

➤ **Relaxation under Labour and Environmental laws**

The process of conducting inspections shall be made more meaningful and simpler. Startups shall be allowed to self-certify (through the Startup mobile app) with 9 labour and environment laws (refer below). In case of the labour laws, no inspections will be conducted for a period of 3 years. Startups may be inspected on receipt of credible and verifiable complaint of violation, filed in writing and approved by at least one level senior to the inspecting officer.

The Start-ups may self-certify compliance in respect of following Labour laws and Environment laws:

❖ **Labour Laws:**

- The Building and Other Constructions Workers' (Regulation of Employment & Conditions of Service) Act, 1996.
- The Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979
- The Payment of Gratuity Act, 1972
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employees' State Insurance Act, 1948

❖ **Environment Laws:**

- The Water (Prevention & Control of Pollution) Act, 1974
- The Water (Prevention & Control of Pollution) Cess (Amendment) Act, 2003
- The Air (Prevention & Control of Pollution) Act, 1981

➤ **Relaxations of certain provisions of Income-tax Act, 1961**

- ❖ **Exemption on profits** - Eligible start-ups can avail exempted from paying Income Tax for 3 consecutive Financials Years out of their first ten years since incorporation, provided certain conditions are satisfied
- ❖ **Angle Tax Benefit** - An eligible start-up can avail Income-tax exemption on consideration received for issue of shares that exceeds the face value

- ❖ **Carried forward and setoff losses** – there is relaxation provided to the provisions of section 79 of the Income-tax act for the purpose of carry forward and set off of losses
- ❖ **Deferring of ESOP income tax liability** - Eligible start-up companies is required to deduct and pay tax on perquisite value within 14 days of the earliest of the following dates (at the applicable rates in force in the financial year in which said specified security or sweat equity shares has been allotted or transferred):
 - After the expiry of 60 months from the end of the relevant financial year;
 - From the date of sale of such specified security or sweat equity share by the assessee; or
 - From the date of which the assessee ceases to be the employee of the person.

➤ **Other Benefits**

- ❖ Easy winding up of Company
- ❖ Easier public procurement process
- ❖ Exemption from prior experience/turnover criteria
- ❖ Earnest money deposit Exemption
- ❖ Fast tracking of Start-up Patent Application
- ❖ Panel of facilitators to assist in filing of IP (Intellectual Property) Application
- ❖ Government to bear facilitation cost
- ❖ Rebate on filing of application

Chapter 3 – Schemes for Start-ups

Besides giving all the above benefits to the start-up for helping them boost the business in the initial stints, the Government has on the go, announced various schemes to help the start-ups. Besides the other schemes announced, we have summarized a few of such schemes below in brief. Each schemes comes with different benefit and requirement.

SIDBI Make in India soft loan fund for MSME'S

The Scheme is to provide soft loan, in the nature of quasi-equity and term loan on relatively soft terms to MSMEs to meet the required debt-equity ratio for establishment of an MSME as also for pursuing opportunities for growth for existing MSMEs.

Sustainable Finance Scheme Small Industries Development Bank of India (SIDBI)

SIDBI has introduced a new scheme called the Sustainable Finance Scheme for funding sustainable development projects that contribute energy efficiency and cleaner production but not covered under the international or bilateral lines of credit. All sustainable development projects such as renewable energy projects, Bureau of Energy Efficiency (BEE) star rating, green microfinance, green buildings and eco-friendly labelling, etc. are applicable for the scope of this scheme.

High Risk – High Reward Research Science and Engineering Research Board (SERB) under Department of Science & Technology

The Scheme for funding High Risk - High Reward Research aims at supporting mainly th proposals that are conceptually new and risky.

If successful, these proposals are expected to have a paradigm shifting influence on the S&T. This may be in terms of formulating new hypothesis, or scientific breakthroughs which aid in emergence of new technologies.

Biotechnology Ignition Grant (BIG)

BIRAC believes that the “bio-innovation capital” of the nation would come from novel ideas which have a commercialisation potential and that evolve out from start-ups or academic spin-offs. BIRAC’s strategy is therefore to support the numerous exciting ideas which have an unmet need for funding and mentorship. This strategy is fulfilled through a grant funding scheme called Biotechnology Ignition Grant (BIG) which is available to scientist entrepreneurs from research institutes, academia and start-ups. The Applicant must be either an Incubatee or have a registered company with a functional R&D laboratory to be eligible for this grant. The scheme is designed to stimulate commercialization of research discoveries by providing very early stage grants to help bridge the gap between discovery and invention

Support for International Patent Protection in Electronics and & Information Technology (SIP-EIT)

SIP-EIT is a scheme to provide financial support to MSMEs and Technology Startup units for international patent filing to encourage innovation and recognize the value and capabilities of global IP along with capturing growth opportunities in ICTE sector.

Chapter 4 – Conclusion

Over the past years, India has seen many upcoming start-ups which has changed the way people think, work and live. Start-ups are basically driven with idea, only a unique idea with a tech solution survives as a startup. It has all the more changed the entire concept and the process of evaluating the enterprise. The startups today have changed the way business is being conducted in each industry. Having understood this, these have gained importance across the globe and hence the Government has understood the importance of a startup to the economy of the country and therefore such benefits and reliefs. There are many more expected in the near future. It will be interesting to see such startups finding way to service the hit which will be caused to the economy due to the recent pandemic outbreak of COVID 19.

Wadhwa & Shah, Chartered accountants

Head office:

Mumbai

701/ 705, Lotus Business Park,
Rambaug lane, Off SV Road,
Malad (West), Mumbai,
Maharashtra – 400064

Branches:

Delhi

5258, Kolhapur House,
Kamla Nagar, Delhi – 110007

Hyderabad

15-4-67, 2nd Floor, Saraswati Complex
Gawliguda Chaman, Hyderabad,
Telangana – 500012



Disclaimer:

Please note that this article is a personal view expressed by the person who is sharing this and is not an opinion and shall be only considered as such. In case of any issues or questions, it is advised that the respective person consults a professional consultant and shall not solely rely upon this article or on his or her interpretation as that might differ in certain circumstances. The writer has tried to bring out his own views in this article and it is not a detailed but a very brief note on such topic.