

START-UP INDIA, STARTING A REVOLUTION

➤ Definition of Startup (Only for the Government Scheme):

Startup means an entity, incorporated or registered in India not prior to **five** years, with annual turnover not exceeding ` **25 crores** in any preceding financial year, working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

- The entity should be Private Limited Company registered under The Companies Act, 2013 or a Registered Partnership Firm under The Indian Partnership Act, 1932 or Limited Liability Partnership registered under The Limited Liability Partnership Act, 2008.
- Five years has not been elapsed since its incorporation or registration.
- The annual turnover not exceeded ` **25 crores** in any preceding financial years.
For this purpose, turnover means the aggregate value of the realisation of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the entity during a financial year.
- The entity should develop and commercialize as under:
 - (i) A new product or service or process; or
 - (ii) A significantly improved existing product or service or process, which will create or add value for customers or workflow.

That means, the mere act of developing products or services or processes which do not have potential for commercialization; or undifferentiated products or services or processes; or products or services or processes with no or limited incremental value for customers or workflow would not be covered under this.

- The business is considered to be Startup Business (Eligible Business) if supported by -
 - (i) Recommendation letter of incubator in Post Graduation Indian College, or
 - (ii) Recommendation letter of incubator funded by Government of India, or
 - (iii) Recommendation letter of incubator recognised by Government of India, or
 - (iv) Should be funded by the Private equity fund like Angle or Venture Capital, or
 - (v) Has patent grant on the product.

➤ Benefits available to Startups:

1. **Tax Exemption to Start-ups from paying income tax on their income for the first 3 years:**

- Startup shall be eligible for tax benefits only after it has obtained certification from the Inter-Ministerial Board, setup by DIPP (Department of Industrial Policy and Promotion) for such purpose.
- Further, the exemption shall be available subject to the condition that the startups shall not distribute its profits as dividend.

2. Tax Exemption on capital gain:

- When person who has capital gains during the year, invests in the Funds recognized by the Government, then they will get exemption from capital gains tax.
- Currently, there is capital gain tax exemption u/s. 54GB of the Income Tax Act, 1961 for investment in newly formed manufacturing MSMEs by individuals (by purchasing equity shares), provided entity purchases new assets with the capital gain received. **Now for the Startups, investment in 'computer or computer software' shall also be considered as purchase of new assets, which was previously excluded from the definition of new asset.**

3. Tax Exemption on Investments above Fair Market Value:

- Currently, investment by venture capital funds in Startups is exempted from income tax liability (share price paid in excess of fair market value is chargeable to tax as income from other sources- Section 56(2)(viib) of the Income Tax Act, 1961). The same shall be extended to investment made by incubators in the Startups.

4. Legal Support and Fast-tracking of Intellectual Property Rights (IPRs) Examination at Lower Cost:

The scheme for Startup Intellectual Property Protection (SIPP) shall facilitate filing of Patents, Trademarks and Designs by innovative Startups. Benefits include:

- Fast-tracking of Startup patent applications for its examination and disposal due to which entity can realize the value of its IPRs at the earliest,
- Provide assistance in filing and disposal of the IP applications related to patents, trademarks and designs under relevant Acts, including appearing on behalf of Startups at hearings and contesting opposition or by other parties, till final disposal of the IPR application,
- Government shall bear facilitation cost for any number of **patents, trademarks or designs** that a Startup may file, and the Startups shall bear the cost of only the statutory fees payable,
- 80% rebate on filing a **patent application**.

5. Compliance regime based on self-certification

- Startups shall be allowed to self-certify compliance with specified labour and environment laws,
- No inspection will be conducted for a period of 3 years under specified **labour laws** except on receipt of complaint for violation,
- Startups which fall under the 'white category' (as defined by the Central Pollution Control Board (CPCB)) would be able to self-certify compliance and only random checks would be carried out in such cases under the **environment laws**.

6. Easier norms for start-ups to exit within 90 days:

- In the event of business failure, simple debt structure or other criteria which may be specified, the Startups may be wound up within a period of 90 days from the date of making an application on a fast-track basis
- For this, The Insolvency and Bankruptcy Bill 2015 (“IBB”), tabled in the Lok Sabha in December 2015 has provisions for the fast track and / or voluntary closure of businesses.
- This objective will promote entrepreneurs to experiment with new and innovative ideas, without having the fear of facing a complex and long-drawn exit process where their capital remains interminably stuck.

7. Relaxed norms of public procurement for start-ups:

- There will not be any criteria of “prior experience / turnover” for filing tenders which are floated by a Government Entity or by a PSU which in turn helps Startups engaged in **manufacturing sector** in participating in such tenders.

8. Introduction of Mobile App for the Startups:

Mobile App will have following benefits-

- Registering Startups with relevant agencies of the Government,
- Tracking the status of the registration application and anytime downloading of the registration certificate,
- Filing for compliances and obtaining information on various clearances/ approvals/ registrations required.