

Start-up India, Stand-up India



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Kick-off

Never before in India’s economic history has entrepreneurship been given such a center stage by the Government and policy makers. 2016 commenced on a subdued note for Indian start-ups with both deal volume and valuation witnessing a slowdown. Since the day it was announced in August 2015, “Start-up India” vision has traversed a long distance in terms of politics and support to entrepreneurs across the length and breadth of the country. In the past two months, the Indian policy architects have announced the much needed regulatory reforms to promote ease of doing business, particularly in respect of the start-ups. The government Programme aims to fill the gaps in the economy for the growth and development of startups and will aim to boost digital entrepreneurship at the grassroots. The government is expected to earmark around INR 2,000 crore for the initiative

These reforms include Start-up India Action Plan, relaxations in norms governing cross-border transactions involving start-ups and recommendations by the Company Law Committee to address the issues arising from the Companies Act, 2013.

Start-up India Action Plan

Prime Minister Narendra Modi kicked off the Startup India Action Plan to build a strong eco-system for nurturing innovation and empowering startups and entrepreneurship in the country.

With this Action Plan, the Government hopes to accelerate spreading of the Startup movement:

- From digital/technology sector to a wide array of sectors including agriculture, manufacturing, social sector, healthcare, education, etc. and
- From Tier 1 cities to Tier 2 and Tier 3 cities including semi-urban and rural areas.

The Action Plan is divided across the following areas:

- ✓ Simplification and Handholding
- ✓ Funding Support and Incentives
- ✓ Industry-Academia Partnership and Incubation

Many entrepreneurs are excited by the announcement made the Prime Minister as part of the Startup India Action Plan. There’s no doubt that the measures are significant, but do they beg the question, are all the startups really eligible for the benefits that were announced?

“Startup”: Are you eligible?



“Startup” defined: Who is eligible?

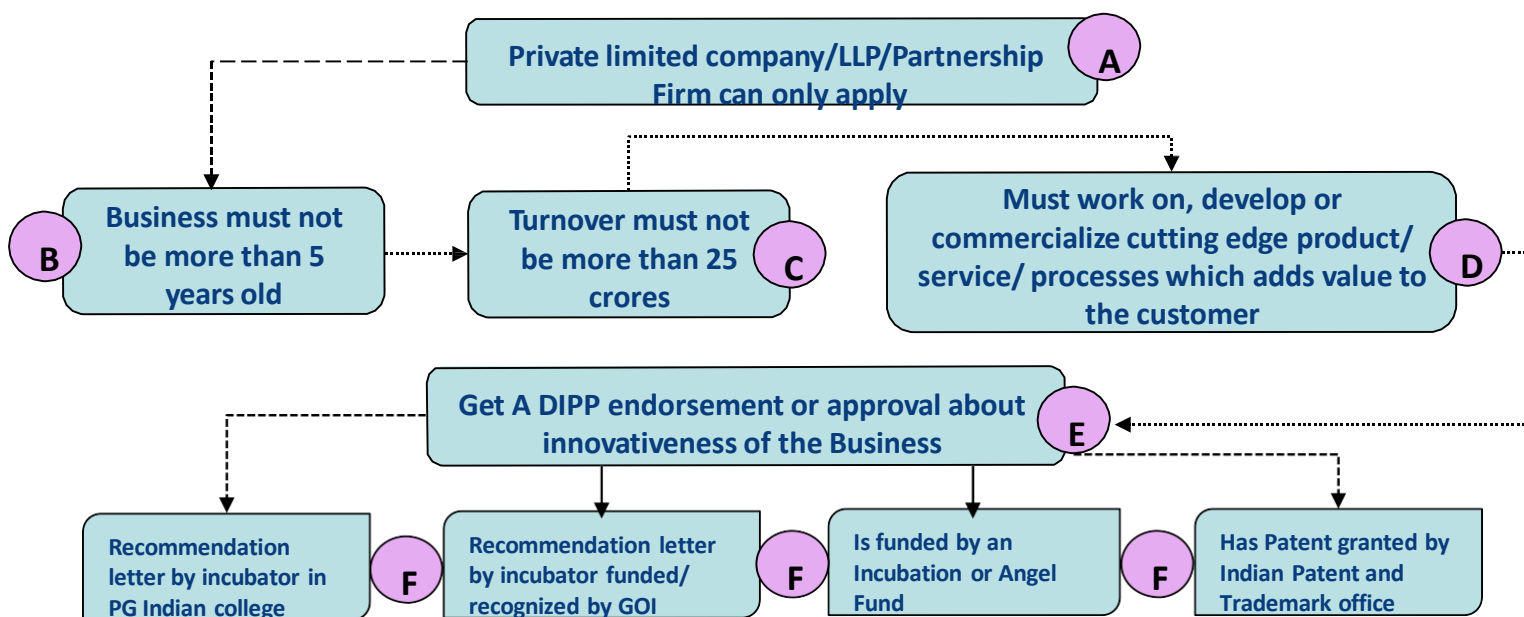
To be recognized as a Startup, the entity should be:

- Registered/Incorporated as a:
 - ✓ Private Limited Company under the Companies Act, 2013; or
 - ✓ Registered Partnership firm under the Indian Partnership Act, 1932; or
 - ✓ Limited Liability Partnership under the Limited Liability Partnership Act, 2008.
- **Five years** must not have elapsed from the date of incorporation/registration;
- Annual turnover (as defined in the Companies Act, 2013) in any preceding financial year must **not exceed INR 25 Crore**;
- Must be working towards **innovation, development, deployment or commercialization** of new products, processes or services driven by technology or intellectual property;
- Startup must aim **to develop and commercialize**:
 - ✓ A new product or service or process;
 - ✓ A significantly improved existing product or service or process that will create or add value for customers or workflow.
- Must **not merely be engaged in**:
 - ✓ 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;
- Must **not be formed** by splitting up or reconstruction of a business already in existence;
- Obtained a certification from the Inter-Ministerial Board, set-up by DIPP to validate the innovative nature of the business.

Startup India Action Plan

The key points of the Action Plan are:

- Register a Private Limited (Pvt. Ltd.) or LLP
- File for trademark
- Develop a prototype Product or Service which is technology driven and solve new market problem
- Keep your company ROC filing up to date
- Search for a recognized Incubator or Angel Funding Firm
- Apply for Patent (If the process is a new innovation)
- Get recommendation from Incubator or Angel Funding Firm
- Apply to Inter Ministerial Board for approval



If you meet conditions A+B+C+D+E and anyone of F series then you are an Eligible Startup

Policy Initiatives



Start-up India Stand-up India- initiative was revealed at the Red Fort on 15th of August 2015. Five months later, on 16th January, Start-up India, Stand-up India action plan was released. This ground-breaking initiative by the Modi government to improve start-ups ecosystem in India got a great response from the business community

Below are the 8 policy initiatives declared in the event that simplifies Entrepreneurship in India

❖ Single Window Digital Setup Process

From April 1st, start-ups would be able to set up their firm by just filing a form on the official mobile app or the website. This means getting the clearances, approvals etc. is just a day long process.

❖ Faster Exits

Now start-ups can wind up within 90 days after a request is placed with the authority involved. This helps in reducing the promoter risk associated with exposure to failed ventures. Such delinking of risks strengthens the Limited Liability Principle.

❖ Tax Benefits

Boosting the Start-up Ecosystem, Government of India has declared a 3 year tax holiday on start-up profits. All start-ups incorporated in India not prior to five years as per the definition of start-up and starting the operations before 2019 can get this benefit for three years. Start-ups claiming for benefits would not lose the privileges if they don't make a profit in 2nd or 3rd years. The tax holiday would be provided only for the years wherein start-up makes the profit within the 5 year window.

❖ Certifications

Start-ups will not be inspected for the initial 3 years after setup for labour laws. Employee Provident Fund (EPF), gratuity, contract labour wages or salaries etc. require only self-certification from now thereby, reducing the regulatory burden on Start-ups.

❖ Comprehensive Intellectual Property Right (IPR) protection

The government now has declared an 80 % rebate in the patent registration cost. This will enable start-ups to protect and commercialize the IPR faster.

❖ Start-up India Hub

Start-up India Hub is a single point of contact for the entire start-up ecosystem. This includes: VCs, angel networks, banks, incubators, legal partners and consultants. Universities and R&D institutions are also a vital part of Start-up hub.

❖ A Start-up Credit Guarantee Fund

The Start-up Credit Guarantee Fund scheme would be a game changer for those start-ups which are not in the radar of big investors.

❖ Start-up Fund

The government will set in place a INR 10,000 crores start-up fund. High priority sectors such as manufacturing, agriculture, health, and education would be covered by this fund. The fund will be a part of the Security Exchange Board of India (SEBI) registered venture funds that invest in new businesses. Initially, it would have the corpus of INR 2,500 crores and a total corpus of INR 10,000 crores reached in next 4 years. A board consisting of professionals from industry bodies, academia, and successful start-ups would be managing this fund.

Big Bang reforms for giving a boost to the *Start Up India*



Thou “hall Prosper – Signifies Finance Minister Arun Jaitley in his Budget Speech on February 29, 2016

In a speech peppered with references to start-ups, Finance Minister in his Budget presentation for 2016-17 had a series of policy initiatives and schemes that aimed at easing the hurdles that start-ups face in the country get a boost.

A recent report states that start-ups in India are expected to raise USD 700 million and 5000 jobs in the next 12 months. The Start-up India initiative, launched in January by PM Narendra Modi, plans to move in the same direction by providing incentives to start-ups in the form of better incubation, talent and capital. Few of the tax benefits that were put forward by the Finance Minister Shri Arun Jaitley are listed below:

Startup Benefits in Nutshell :

- A start-up company, according to the government, would have equity funding of at least 20% by incubation, angel or private equity fund
- Tax exemptions for 3 years and concessions on capital gains tax
- Compliance regime based on self-certification and no regulatory inspection for three years
- A fund of INR 10,000 crore to back-up startups. Also, a credit guarantee fund for startups.
- A Startup India hub – a single point of contact for interactions with the government
- Atal Innovation Mission (AIM) for promotion of research and development including 500 tinkering labs, 35 public-private sector incubators, 31 innovation centres at national institutes, 7 new research parks, 5 new bio-clusters.
- 90 days for a startup to close down its business
- 80% reduction in patent filing fee and fast track mechanism for startup patent applications.
- Relaxed norms of public – procurement for startups. No requirement of turnover or experience, but no relaxation in quality
- A mobile app to be launched on April 1 making it possible to register startups in one day.

Tax Benefits:

1. As per Section 80IAC, **100% tax exemption for 3 consecutive assessment years out of 5 years of the profits derived from such business which is setup before 01.04.2019.** However, MAT provisions shall be applicable
2. **Exemption from capital gains** where investment is made in units of specified funds u/s 54EE. Further, the scope of exemption u/s 54GB is extended to cover investment in eligible startup (wherein ownership is more than 51%) subject to specified conditions*.

* With an objective to provide relief to an individual or HUF willing to setup a start-up company by selling a residential property to invest in the shares of such company, it is **proposed to amend section 54GB** so as to provide that LTCG arising on account of transfer of a residential property shall **not be charged to tax** if such capital gains are **invested in subscription of shares of a company which qualifies to be an eligible start-up**, subject to the condition that the individual or HUF holds more than 50% Shares of the company and such company utilizes the amount invested in shares to purchase new asset before the due date of filing of return by the investor.

The existing provision of Section 54GB requires that the company should invest the proceeds in the purchase of new asset being new plant and machinery but does not include, inter-alia, computers or computer software. With a view to avoid the incidence of the aforesaid condition on start-ups where computers or computer software form the core asset base owing to nature of business activity, it is proposed to amend section 54GB so as to provide that the expression "new asset" includes computers or computer software in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification.

The above tax benefits shall apply in relation to the Assessment Year 2017-18 (relevant to the Financial Year 2016-2017) and subsequent assessment years.

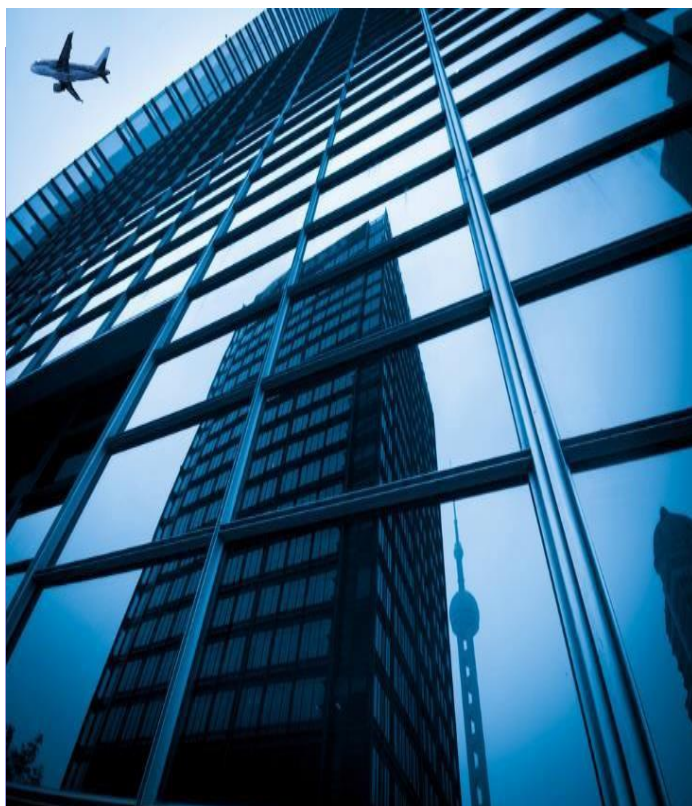
Our comments

Start-up India as promoted by our PM, Narendra Modi aims to develop an ecosystem to promote and nurture entrepreneurship across the country. Further, this is also aimed to augment bank financing for start-up ventures to boost entrepreneurship and encourage start-ups with jobs creation. Employment growth is a primary economic development goal of the Government. More jobs generally mean more residents, more spending at local businesses, and more tax revenues for local governments.

The Ministry of Human Resource Development (HRD) and the Department of Science and Technology have agreed to partner in an initiative to set up over 75 start-up support hubs in the National Institutes of Technology (NITs), the Indian Institutes of Information Technology (IIITs), the Indian Institutes of Science Education and Research (IISERs) and National Institutes of Pharmaceutical Education and Research (NIPERs) to further promote the Start-up plan and give an impetus to the eco system of India.

Further, from the Service tax point of view, Service tax on services provided under Deen Dayal Upadhyay Grameen Kaushalya Yojana and services provided by Assessing Bodies empanelled by Ministry of Skill Development and Entrepreneurship are proposed to be exempted in the Budget Speech of the FM Shri Arun Jaitley.

In order to strengthen the vision of 'Skilled Indig, the National Skill development mission has created an elaborate skilling ecosystem and imparted training of 76 lakh youth. Their mission is to bring entrepreneurship at the doorstep of youth thorough the Pradan Mantri Kaushal Vikas Yojna and decided to set up 1500 multi skill training institute across the country.



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