



Proposed Start-up Policy: A Review

Since coming to power in May 2014, BJP – led National Democratic Alliance (NDA) Govt. has launched series of programmes and initiatives like – Make in India, Skill India, Swachh Bharat Abhiyan, etc. Several steps have been taken for the said initiatives, which include co-ordination with the industry, amendments in several legislations, etc and implementation is on the roll. Further, with an objective of encouraging innovation and entrepreneurship among youngsters and increasing employment opportunities, the Prime Minister, Shri. Narendra Modi proposed another initiative “Start-up India, Stand up India”. This initiative was suggested in his speech on India’s Independence Speech in 2014.

At a start-up event at San Jose, California (September, 2015), Shri. Narendra Modi, said that start-ups, technology and innovation are effective instruments for India’s transformation, and creating jobs for the youth. He also said *“When each of the 500-odd towns produces 10 start-ups and each of our 600,000 villages produce six small businesses, on a regular basis, we will create an enormous economic momentum and generate huge number of jobs in our country.”* He also acknowledged and appreciated the innovative entrepreneurial mindset in India and stated that there are some outstanding start-ups that have applied technology to transform areas such as healthcare, education, agriculture, clean energy, security, financial inclusion, and water management.



Introduction to the proposed law / Policy: To boost entrepreneurship, innovation and job creation, Department of Industrial Policy and Promotion (‘DIPP’) is in the process of rolling out a separate legislation for start-ups (name of the law / policy is not yet finalized. For the article, it is stated as ‘proposed Act / Policy’). The objective of the proposed Act / Policy is to refine the extant cumbersome process of compliances under different legislations into a 2-page Act. It proposes to reduce the excessive documentation and numerous approvals which are required to commence business in India or invest money in start-ups through Private Equity or Venture Capital. The intention of the proposed law is to eliminate factors that hold back creativity and innovation for the start-ups. The proposed Act / Policy aims to build not just of offer incentives, but to build an entire ‘eco-system’ for start-ups, which will focus on other issues like ease of doing business, compliances and exits.

Contents of the proposed Act / Policy: In the proposed Act / Policy, ‘start-up’ will be clearly defined which will include companies that provide innovative product, technology or service. Therefore, it may also include the age factor of the organization. It will be necessary even to specify the applicability to the types of business organizations. It is proposed that listed companies will not be part of it. The proposed Policy / Act will address the following issues:

- (i) Delays relating to incorporation,
- (ii) Problems faced by start-ups at the time of issuing Employee Stock Options,
- (iii) Lack of initial funding,

- (iv) Cumbersome documentation under FEMA,
- (v) Limited access to external commercial borrowings.

Since DIPP is involved in the entire process of the Policy / proposed Act, it has asked Finance Ministry to exempt the royalty income generated by the IPRs developed by start-ups while also enhancing exemptions for research and development. With an aim of encouraging IPR generation and increasing innovation, the Income-Tax Act, 1961 provides for weighted deduction of up to 200% in certain cases for research and development. Also for certain expenditure incurred on scientific research is allowed for deduction up to 200%. DIPP has asked Finance Ministry to include more expenses in the scientific research category for deduction. (However, its noteworthy that the proposal made by DIPP to the Finance Ministry is contrary, as the Ministry has already laid down roadmap for phasing out exemptions given to the corporates).

NASSCOM's request for additional dispensations: In the proposed Act / Policy, NASSCOM has asked for additional dispensations for tech-starts up that deal with virtual products and are typically small companies, with single digit employees. The 'additional dispensations' includes request for exemptions from Acts such as Environment Tribunal Act, Green Tribunal Act, Building and other Construction workers Act tech-based companies. NASSCOM has also recommended a more favourable tax treatment towards investors who fund start-ups. As per the NASSCOM Report, jobs creation by Indian start-ups are expected to rise to 2,50,000 by 2020 from 80,000.

Way Forward & Opportunities for professionals: Pursuant to the media reports, the proposed Act / Policy will be approved by the Union Cabinet in January 2016 and will ensure effective implementation. The proposed Act / Policy will bring upon new opportunities for professionals and entrepreneurs. The professionals will be required to thoroughly read the fine print for understanding the implications of the proposed Act / Policy on the start-ups and the exemptions provided to them under various legislations. For the exemptions and incentives, the Govt. may prescribe certain conditions. It will be role of professionals in helping the entrepreneurs understand the meaning and implications of the proposed conditions, for ensuring effective application of the proposed Act / Policy.

IT Toolbox for Corporate Professionals

Companies Act Integrated Ready Reckoner

<http://ca2013.com/>

Extracts from the website <http://ca2013.com/>:

“Indian corporate law is not only voluminous but also rapidly evolving. The Companies Act,2013, with 470 sections and 7 schedules is incomplete without 13 chapters of rules, each running into dozens of pages. Further practitioners need to stay updated with amendments to the act and rules, in addition to keeping abreast of circulars, notifications and orders that are regularly issued by the Ministry of Corporate Affairs numbering more than a hundred. This website integrates all the pronouncements on the Companies Act and displays the provisions as it is on the day.”

This website has got the Secretarial Standards, a Repository of similar laws and fee calculator tool.

You can easily search with keyword or section number. When you open a particular Section you will see the full section text, with all its associated Rules, Registers, Returns, Schedules, Notifications, Clarifications and Orders displayed in a new page. While reading a Section text, Rule or Schedule, any amendment, notification, or clarification to that text is hyperlinked to its source document for ready reference.