

Update on Enabling the 'Startup India' Programme Government Announcements made so far

The Startup India' action plan was launched by the Hon'ble Prime Minister earlier this year. Different ministries have suitably incorporated the startup theme and have enabled ease of business to in support of the articulated vision of making it easier for the entrepreneurs to conduct business with ease.

Various actions over the last 6 months to enable the Startup India Action plan are summarized below:

1. Definition of startup notified as follows¹.

A Start-up is an entity (Private Limited Company or Registered Partnership Firm or Limited Liability Partnership) shall be considered a "Startup" -

- a) Upto 5 years from the date of its incorporation/ registration, and*
- b) If its turnover for any of the financial years has not exceeded INR 25 crore, and*
- c) It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.*

The entity should not have been formed by splitting up or reconstruction of a business already in existence.

A proprietorship or a public limited company is not eligible as startup. A one person company, being a private limited company is entitled to be recognized as a 'startup'.

2. Startup India FAQs: DIPP has created FAQs² on the Start-up India Programme. The FAQs are aimed at addressing common queries, ranging from definition of Startup, to the procedure for registration, documents required, procedure etc to avail tax and IPR benefits, constitution of Inter-Ministerial Board etc. These FAQs will be evolving over a period of time based on the learnings from the programme implementation.

3. Online Portal and Mobile App for Registration³ - Dedicated online portal for the Startups was launched by Government in April. The portal encompasses information with regards to various benefits being offered under the Startup India programme. New and existing entities will now be able to apply for the Startup registration by filing online application. Once registered, a startup entity would be able to apply for various benefits and schemes announced under the said programme.

¹ http://dipp.nic.in/English/Investor/startupindia/Definition_Startup_GazetteNotification.pdf

² http://dipp.nic.in/English/Investor/startupindia/FAQs_StartupIndia_30March2016.pdf

³ <http://startupindia.gov.in/>

NASSCOM Support for Registration: NASSCOM Warehouses set up in collaboration with State Governments will be a recognized agency to provide a letter of support for innovative startups, as required for registration under the startup India.

4. Tax benefits: The Ministry of Finance in the current Finance Act provides for the following tax benefits, in alignment with the Startup India action plan

- a) Long term capital gains: No tax shall be applicable on Long Term Capital Gains if the investment is made in unlisted companies for more than 24 months. The holding time has been reduced from the earlier 36 months.
- b) Income Tax exemption for a period of three consecutive years for startups, including “Limited Liability Partnerships” which are engaged in eligible business.

A startup can apply for the tax benefit at the time of registration or at the later stage. An approval is required from the Inter Ministerial Board to qualify for the benefits.

5. Enabling IPR Protection

a) **IP Assistance**

- i. **FAQs-** To support and build an understanding of Intellectual property and associated rights, the Indian Patent Office has made available FAQs⁴ on the various procedures and requirements with regard to protection of Patents, Design and Trademarks.
- ii. **IP facilitation** -Scheme for facilitation of IPR filing for Start-ups has been launched on a pilot basis for one year⁵. Under this scheme, Startups interested in filing a patent, trade mark or design can seek the support for filing from list of patents⁶, trademark⁷ & design facilitators, and expenses for these services will be borne by the Government for eligible startups. For startups to be eligible for this facilitation, an approval from the Interministerial board is required. The process of availing this benefit is similar to the tax benefits as explained earlier in pt.5.

b) **Expedited Examination of Patent Application-** In line with the Startup India action plan, the Indian Patent Office has notified Patent Amendment Rules 2016⁸ where provision for expedited examination of **IP** applications from startups have been

⁴ http://www.ipindia.nic.in/Whats_New/startups_IPRFacilitation_22April2016.pdf

⁵ http://startupindia.gov.in/SIPP_IPR_Scheme.pdf

⁶ http://startupindia.gov.in/List_of_facilitators_for_patents.pdf

⁷ http://startupindia.gov.in/List_of_facilitators_for_trademarks.pdf

⁸ [http://www.ipindia.nic.in/IPActs_Rules/Patent_\(Amendment\)Rules_2016_16May2016.pdf](http://www.ipindia.nic.in/IPActs_Rules/Patent_(Amendment)Rules_2016_16May2016.pdf)

introduced for the first time for any IPR applicant. This is expected to crash the timelines of evaluation on a need basis.

6. **Relaxation in Public Procurement Norm** – In order to create a level playing field for the Startup, MSMEs in the manufacturing and services sector, the Ministry of MSME has suggested⁹ to waive off the mandatory requirements of ‘prior experience or prior turnover’ under the Public Procurement Policy so long as they meet the prescribed technical and quality requirements.
7. **Launch of Grand Innovation Challenge:** With the objective to find low cost solutions to the India’s key development challenges and needs, the NITI Aayog has launched the ‘Grant Innovation Challenge’. In Phase I, the Government is seeking inputs from the citizens towards the key challenges which need urgent attention for the development of the society. In Phase II, based on the inputs received, the Government will shortlist and prioritize the issues and will further seek innovative solutions from the public to address them. The Government will acknowledge and provide support towards the development of the solutions proposed.
8. **Self-Certification for compliance with Labor Laws** – With the objective to make it convenient for Startups to run their business with ease, the Ministry of Labour and Employment have issued notification¹⁰ which will save young Startups from the burden of obtaining the necessary regulatory approvals, requiring them to comply with various labor laws. With this notification, Startups will now be able to self-certify themselves for the compliances with various Labor laws. It also suggests exempting their establishments from any physical inspection as required by the law.
9. **Relaxation of Environmental Clearance for White Category of Industries** - The Ministry of Environment and Forest have re-categorized¹¹ industries based on the pollution Index in four categories Red, Orange, Green and White. The new category ‘White’ has been introduced for non-polluting Industries who will not be required to take Environment Clearance and Consent.

In the past, many State Governments have also given such exemption to the IT& ITES enterprises from getting environment clearance from their State Pollution Control Board.

For the complete Startup India Action Plan, please visit

http://dipp.nic.in/English/Investor/startupIndia/StartupIndia_ActionPlan_16January2016.pdf

⁹ http://startupindia.gov.in/MSME_Relaxed_Norms_for_Startups_10_03_2016.pdf

¹⁰ http://startupindia.gov.in/Self_certification.pdf

¹¹ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=137373>