
WELCOME
HINESH R DOSHI & CO LLP

Government Initiatives for Startups

Government Initiatives

- Startup fund with an initial corpus of Rs. 2500 Crs and a target corpus of Rs. 10,000 Crs over four years . Participation through SEBI Registered Venture Funds

- Debt funding to startups also encouraged with a corpus of Rs.500 Crs per year for the next four years

- Set up seven new research parks with an initial investment of Rs. 100 Crs each.

Government Initiatives

- Compliance regime based on self-certification for six Labour Laws and three Environment Laws
- Legal support and fast-tracking Patent examination at lower costs
- Relaxed norms of public procurement for Startups
- Launch of Atal Innovation Mission (AIM) with Self-Employment and Talent Utilization (SETU) program
- Rolling-out of mobile App and portal from 1st April 2016
- Faster exit for Startups (winding up within 90 days)

Status Report

- As per the NASSCOM report on startup (2016), there are more than **4750** tech startups. Only **1006** have been recognized as Startups by DIPP (as on 15th May, 2017).

- Out of the same, only **23** Startups have been **approved for availing tax benefits** by Inter Ministerial Board as per the status report on www. startupindia.gov.in

Status Report

- Out of 10,000 crores initial corpus fund, very less amount is disbursed, because the bank only puts in 15% of the total corpus, while VC to bring remaining 85%.

- To revive the scheme, under new rules, VCs to invest half the corpus in start-ups while the other half can go to relatively mature firms.

Status Report

Parameters	India	United States	UK	Israel	China
Global Innovation Index	33.61	61.40	61.93	52.28	50.57
Total number of start-ups	4,600-5,000	52,000-53,000	4,800-5,400	4,500-4,600	4,200-4,300
Time taken to set up business	15-30	4-8	4-6	10-15	30-40

As per Nasscom report–Indian Startup Ecosystem Maturing- 2016

Status Report

Parameters	India	United States	UK	Israel	China
Number of VC Firm	300+	800+	NA	200+	NA
Number of Angel investors	1,800	3,00,000	18,000	600+	NA
Number of Incubators	140+	1,500+	50+	130+	2400+

As per Nasscom report–Indian Startup Ecosystem Maturing- 2016

Eligible Startup Criteria

Definition of "Startup" as per DIPP Notification dated 17th February, 2016.

- Should not be older than 5 years.
- Annual turnover not exceeding Rs. 25 crore in any preceding financial years
- Working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property

For Availing Tax Benefit

- To avail **tax benefits** the startup is required to obtain a certificate for "eligible business" from *Inter-Ministerial Board of Certification - DIPP (Department of Industrial Policy and Promotion).*

The Board comprises of :

- Joint Secretary, Department of Industrial Policy and Promotion.
- Representative of Department of Science and Technology.
- Representative of Department of Biotechnology.

Small Companies Benefits available to Startups

Small Company Definition – Section -2(85) of Companies Act, 2013

- Companies with paid-up share capital not exceeding Rs. 50 Lakhs

- Companies with turnover in previous year not exceeding Rs. 2 Crores

Small Company Benefits

- Small company need not have a CS and only director can sign and authorize the annual returns.

- May hold only two board meetings in a year. There should be a minimum gap of 90 days between the two meetings and they can be held in each half of the calendar year.

- The provision regarding mandatory rotation of the auditor are not applicable

Government Support for Incubators

- NITI Aayog has received applications for setting up Atal Incubation Centre's (AICs) in public and private sector as well as scaling up of Established Incubation Centre's (EICs).

- NITI Aayog has approved 10 institutes to establish new incubators in the grant of INR 10 Crores each.

- A grant-in-aid of Rs. 10 Crore would be provided to each Established Incubator Centre (EIC) for a maximum of 5 years to cover the capital and operational costs in running a Centre. 6 established incubators have received the scale-up grant of Rs. 2.5 Crore as first instalment.

Issues for Incubation

- If the incubator is a sector specific incubator, he will not allow incubatees of other sector under him.
- Accepting the application and extending the services are at discretion of the incubator.
- The incubators may require incubatees to provide refundable security deposit which may not be feasible for a start up.

CSR BENEFIT

Investment qualifying for CSR :

- Contributions or funds provided to incubators located within academic institutions and approved by Ministry of Science and Technology or Ministry of MSME.

Clarifications with regard to provisions of Corporate Social Responsibility under Section 135 of the Companies Act, 2013

- CSR Benefits available for contributions or funds provided to Non Academic Techno park TBI (Technology Based Incubator) not located within an academic Institution but approved and supported by Department of Science and Technology.

TAX
BENEFITS AND ISSUES
TO
STARTUPS

Section 54 EE (w.e.f 1st April, 2017)

Restrictive Conditions

- The specified units acquired by the assesse cannot be transferred for the period of 3 years in order to avail the exemption from tax on Capital gain.

- Assessee cannot avail any loan or advance by keeping these specified units as security. They should remain free of charge. If they are given as a security it shall be construed as a deemed transfer and the capital gains shall be taxed in the hands of the asssesse.

Section 54GB (w.e.f 1st April, 2016)

Benefit

- LTCG on transfer of a residential property exempt , if such gains are invested in subscription of shares of a company which qualifies to be an eligible start-up 1st April 2016.

Restrictive Conditions

- Net consideration from transfer should be invested for subscription of equity shares of eligible company carrying not less than 50% of share capital or 50% of voting power. This will affect startups having 50% Joint ventures or equal partnerships.

- Investment in equity shares needs to be done before due date of filing the income tax return. So if the property is sold in March, investments in equity shares needs to be done before 30th September.

Section 54GB (w.e.f 1st April, 2016)

Restrictive Conditions

- Investments from subscribed equity capital should be done only in New asset and within 1 year from date of subscription. Second hand machinery not allowed.

- In regards for investments in business of manufacture, benefit of claiming exemption under this section is available only till 31st March, 2017 and for eligible startups benefit to claim exemption available till 31st March, 2019.

- The equity shares acquired in the Company or new asset acquired by the company cannot be transferred for the period of 5 years in order to avail the exemption from tax on Capital gain. If they are transferred earlier, the capital gains shall be taxed in the year of such transfer.

Section 80IAC (w.e.f 1st April, 2017)

Benefit

- Tax exemption @ 100 % of profits to startups for any three consecutive assessment years out of seven years, at the option of the Startup beginning 1^{st} April 2016 .

Restrictive Conditions

- The beneficial provision of this section shall not be available if the start up is incorporated by splitting up, or the reconstruction, of a business already in existence.

Section 80IAC (w.e.f 1st April, 2017)

Restrictive Conditions

- The startup shouldn't be formed by using second hand plant and machinery.

- Some exceptions are as follows:

  - Imported second hand machinery shall be allowed if it was never installed in India earlier and depreciation was not claimed on the machinery in India.

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  - Second hand machinery to the extent of 20% of the total value is allowed.

Section 80IAC (w.e.f 1st April, 2017)

Issues

- Although a deduction under this section has been given but the companies shall still be liable to pay tax under MAT/AMT. However w.e.f 1st April, 2018 MAT credit shall be able to be carry forward and set off available for period of 15 years from current 10 years.

- A newly established start up shall end to make losses in the initial years and the same shall be set off when profits accrue. The time frame to avail this benefit is open only for a period of seven years. It is likely that the company may not get the opportunity to avail this deduction.

Section 56(2)(vii b)

Benefit

- Apart from exemption to VC, Central Government notifies classes of person being resident who invest in shares of a **“startup company”**.

Restrictive Conditions

Due to 3 restrictive conditions in the Startup definition, the benefit provided is a non-starter.

Section 79- Carryforward of Loses

Benefit

- Eligible startups can carry forward and set off business loss against the income of a subsequent year, irrespective of a change in shareholding provided all the shareholders holding shares carrying voting power on the last day of the year in which the loss was incurred, continue to hold those shares on the last day of the year in which such loss is to be set-off.

- Change in shareholding due to death of shareholder, gift to a relative or merger, demerger of foreign parent, is permitted. The loss should be incurred during the period of seven years beginning from the year in which such company is incorporated

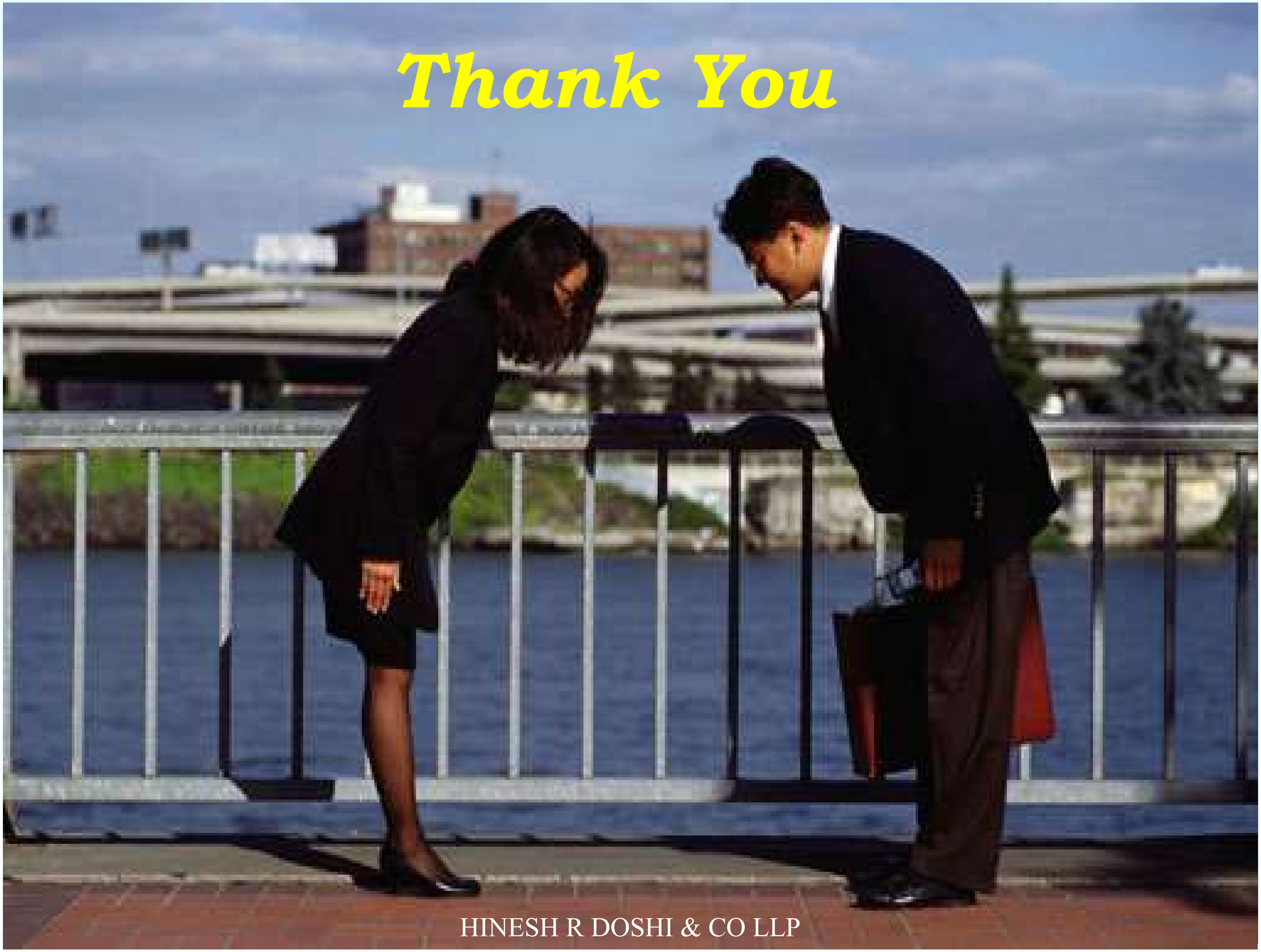
- The above benefit is more restrictive in nature.

Other tax Issues for E-commerce- Digital Services

- Payments made for online software update/add-ons is royalty or business income.
- Subscription fee paid for obtaining technical information/data is FTS or business income
- Fees for website hosting & data warehousing service is taxable as FTS, Royalty or business income.
- Payments towards advertisement on ecommerce portal is royalty or business income?

Other tax Issues for E-commerce- Digital Services

- Whether website or the server on which website is hosted constitutes PE.
- Whether internet service provider constitutes PE.
- Whether website development cost is revenue expenditure or capital expenditure.
- Whether e-commerce player is required to withhold tax on payment gateway charges or to obtain license/domain name to carry out the e-commerce activity.


Thank You
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