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# Elucidation of efficacy and regulatory mechanism of start-ups in India

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**Abstract**
On January 16, 2016, the Indian government launched the Start-up India programme, which has changed the way markets, potential entrepreneurs, and investors approach start-ups. This transformation included the development of legislative initiatives aimed at fostering a start-up culture and allowing younger people to take chances with their ideas and become "job creators" rather than "job seekers." Start-up India is the government of India's flagship project aimed at creating a robust environment for nurturing innovation and start-ups in the country, which will promote long-term economic growth and create large-scale job opportunities.
The aim of this paper is to analyse the requirements for starting a business, to explain the rewards granted to entrepreneurs under the Start-up India programme, and to investigate the regulations, policies, and legal frameworks for starting a business in India. The Department for Promotion of Industry and Internal Trade (DPIIT), which is part of the Ministry of Commerce and Industry of the Government of India, is the key body in India for dealing with "start-up" issues. It can be concluded that start-ups have a long-term impact on a country's economy and living standards, such as India's. The success of the Start-up India campaign is dependent on efforts such as faster and easier company registration, self-certification for many legal criteria, three years of zero inspection, patent funding, and patent protection speed. Good legislative frameworks will increase the application and acceptability of the term "start-up" among entrepreneurs and young investors.

**Keywords:** start-up, legal frameworks, schemes & policies, entrepreneur, government

## Introduction
The government of India launched the Start-up India initiative on January 16, 2016, and it has completely changed the way markets, potential entrepreneurs, and investors approach start-ups. This transformation involved the development of legislative initiatives aimed at fostering a start-up culture and allowing younger members of the population to take risks with their ideas and become "job creators" rather than "job seekers." The demographic dividend in India necessitates proper human resource channelization.
Start-ups are defined as businesses that are just getting started and are focused on developing, deploying, and commercialising innovative goods, processes, or services that are based on technology or intellectual property. Start-up India is the government of India's flagship project aimed at creating a robust environment for nurturing innovation and start-ups in the country, resulting in long-term economic growth and large-scale job creation.
The promotion of start-ups, the creation of jobs, and the development of money are the key goals of Start-up India. Start-up India has launched a number of initiatives aimed at creating a strong start-up ecosystem and changing India into a country of job creators rather than job seekers. These initiatives are overseen by the Department for Industrial Policy and Promotion (DPIIT), which is the primary body for dealing with start-up concerns in India and is part of the Ministry of Commerce and Industry of the Government of India.

**Any business that falls under one of the following categories is referred to as a "start-up."**
- Age of company-The company's age shall not exceed ten years from the date of incorporation.
- Type of Business- A Private Limited Company, a Registered Partnership Firm, or a Limited Liability Partnership should have been formed.

- Annual Turnover - No more than Rs.100 crore in any of the financial years from incorporation.
- Original Entity - The company or Entity should have been founded from the ground up by the promoters, rather than being divided up or rebuilt from an existing business.
- Innovative & Scalable - Should have a plan for developing or improving a product, process, or service, as well as a scalable business model with high potential for income and employment generation.

**Action plans for Start-up in India**

On January 16, 2016, Prime Minister Narendra Modi announced an Action Plan to Boost Start-ups.

- Funding assistance provided by a fund-of-funds with a corpus of Rs. 10,000 Crore. The issue is that the government will begin disbursing the Rs. 2500 crore set aside each year.
- In one day, you can start a business. The action plan allows entrepreneurs to register a business in one day, as opposed to the current 15-20 days. The government intends to put it into effect on April 1, 2016. Integration of DIN, TAN, and DSC, for example, is a challenge.
- There is no tax on profit and there is a three-year inspection period.
- Exemption from capital gains taxes
- Credit guarantee programme
- Easy and Quick Exits Policy: -In the case of a start-up with a basic debt structure, the action plan calls for exits within 90 days. The new Insolvency and Bankruptcy Act of 2015 poses a challenge. Furthermore, the term "simple debt structure" must be defined correctly.
- If money is invested in another start-up, there will be no capital gain.
- Self-certification-based compliance for labour and environmental legislation Single point of contact for public procurement for start-ups Set up a clearance centre in India.
- Registration portal and mobile app
- Handholding with the government as a friend and collaborator
- New intellectual property rights protection, a reduction of 80 percent in patent fees, and the ability to expedite patent examination
- Encourage start-ups in government procurement through exemptions from experience and turnover requirements.
- Encouragement to incubation as part of a special scheme for women entrepreneurs
- Support for biotechnology start-ups and a programme to stimulate student innovation in 500,000 schools.
- Creating Innovation Centers at National Institutes
- Establishing Research Parks.

**Review of Literature**

Dutta (2016) [4] focuses on start-ups and the Indian government's initiative, concluding that India ranks third in the global start-up ecosystem. In the year 2015, the economy grew by more than 65 percent. Start-ups are businesses that are innovative in their development, analysis, evaluation, and research for their target market. Various government policies, programmes, initiatives, and tactics connected to start-ups are reviewed in this study. Today's start-ups are spreading like a grapevine. Males and females are both participating. Females are also contributing more ideas and taking risks in order to maintain their credibility. Indian start-ups strive to create a favourable start-up ecosystem by focusing on education, talent, innovation, and incubators.

Chandiok (2016) [3] attempted to comprehend the initiative and life cycle of a start-up, as well as to investigate public awareness of start-ups in light of recent industry changes. The study stated that making finance more accessible and affordable, making patent registration faster, providing research and development credits, and making admission easier are all necessary to Start-up India's success as a rising economy. Start-up Indians' strategy is to thrive amid a sea of mental and cognitive shifts. It is adding feathers to the unstoppable Indian's wings. The world is on the verge of another disaster. Start-up India is all about defying conventions and catalysing a revolution of distinct and assertive business models created by young entrepreneurs. It's a forerunner to India taking centre stage in the world.

Upadhyay and Rawal (2017) [14] attempted to explore the causes behind the inorganic growth of start-ups in India, as well as the various challenges they confront. The finding of the study reveals pattern of start-ups and their founders reveals that highly educated and bright young entrepreneurs are launching start-ups to pursue their passion. Many Indian start-ups have recently attracted significant finance from a variety of professional and public companies (both local and foreigners), indicating that India's start-ups are well-regarded globally. In India, particularly, the number of tech start-ups has surged and their funding has also increased.

Pandey (2018) [9] investigated the impact of education, institute, experience, gender, and funding type on a start-up's initial investment. During the months of January to June 2017, research data was gathered from several websites for this purpose. The findings demonstrated that, while a start-funding up's is mostly determined by the type of funding, such as seed capital and private equity, another element, which was included in this study as an independent variable, has a substantial impact on funding. In this study, it was also discovered that, among Mumbai, New Delhi, and Chennai, Bangalore has the finest start-up ecosystem, and that, based on the data, Chennai has the slightest impact of the founder's educational background on the start-up’s funding.

Mohite (2019) [8] looks into the possibilities of learning apps as a fantastic business idea and to look into how they are used in rural areas. According to the study, Start-up India is a wonderful endeavour by the Modi government, and young entrepreneurs should take start-up ideas seriously. Online education is not a thing of the future. It's a significant deal right now. Online learning should be made available to rural students. Our approach to rural education needs to change, and a support system for online learning should be put in place.

Korreck (2020) [7] examines the health of the Indian start-up ecosystem and sets out three goals firstly, to gain a better knowledge of the growth drivers and motivations of Indian start-up founders, as well as the obstacles they face and the pillars that support them. Data from semi-structured interviews with start-up founders, investors, and representatives from support organisations is used in the analysis. According to the findings, the Indian market offers many prospects for start-ups, and start-ups, in turn, have high hopes of promoting growth and creating jobs. In India, more start-ups have arisen in the previous two decades, and the related ecosystem has grown rapidly. As a result, support has expanded in a variety of areas, including office space and infrastructure, business mentoring and networking, and the availability of capital.

Badra and Sharma (2021) [2] attempted to comprehend the Start-up India effort, investigate public awareness of start-ups in light of recent government developments, and determine respondent expectations from the initiative. Respondents to this study agreed that funding for an incubation centre was a good idea. The government's proposal follows a similar pattern across universities, innovation movements, research parks, and industrial parks. The government's offer of ten thousand crores in initial capital over four years has the potential to attract tenfold investment by 2022. Credit guarantee for start-up lending is the shot in the arm that Indian industry needs.

**Research Gap**

After making detailed and extensive review of the available literature, some studies deal with the success rate of start-ups in a particular time period or region. Some studies included impact of start-ups on economy, challenges faced by start-up entrepreneur and growth drivers and motivations of Indian start-up founders. There is a gap in the related literature about explanation of the benefits granted to entrepreneurs under the Start-up India scheme and to investigate the laws, policies, and legal frameworks for starting a business while taking into account the current situation and requirements in India.

**Objective of the study**

- To explain about the Start-up Registration eligibility.
- To describe the advantages available to entrepreneurs under the Start-up India programme.
- To investigate the regulations, policies, and legal frameworks for new businesses in India, taking into account the current situation and needs.

**Design of the study**

The nature of the study is descriptive and exploratory and there is no use of statistical tools and techniques in this study.

**Explanation of the study**

**(A). Eligibility for Start-up Registration**

1. A private limited corporation or a limited liability partnership is required to be formed.
2. It must be a new company or one that has been in operation for less than five years, with a total turnover of less than 25 crores.
3. The enterprises should have secured Department of Industrial Policy and Promotion permission (DIPP).
4. The company must be funded by an incubation fund, an angel fund, or a private equity fund in order to receive DIPP approval.
5. The Indian Patent and Trademark Office should have issued a patron guarantee to the company.
6. It must have a letter of recommendation from an incubator.
7. The start-up India campaign exempts capital gains from income tax.
8. The company must come up with new ideas or products.
9. Angel funds, incubators, accelerators, private equity funds, and angel networks are all required to register with SEBI (Securities and Exchange Board of India).

**(B). Benefits offered to entrepreneurs as part of the Start-up India programme**.

In India, start-ups are growing increasingly popular. The government, led by Prime Minister Narendra Modi, has launched and supported Start-up India. The government is very supportive of new businesses. Many benefits are given to entrepreneurs who start businesses in order to promote growth and help the Indian economy.

The following are the advantages that an entrepreneur receives: -

a) **Simple process:** The Indian government has established a mobile app and a website to make it easier for start-ups to register. Anyone interested in starting a business can fill out a simple form and upload documents to the website. The entire procedure takes place entirely online.
b) **Cost savings:** The government also publishes a list of patent and trademark facilitators. They will deliver high-quality Intellectual Property Rights services, such as patent examinations that are completed quickly and at a lesser cost. All facilitator fees will be covered by the government, leaving just the statutory fees to be covered by the start-up. They will be able to save 80% on the cost of filing patents.
c) **Easy access to funds:** The government has established a 10,000 Crore rupee fund to provide venture financing to start-ups. In order to encourage banks and other financial institutions to provide venture capital, the government is also issuing guarantees to lenders.
d) **Three-year tax holiday:** Start-ups will be excluded from paying income tax for three years if they obtain certification from the Inter-Ministerial Board (IMB).
e) **Tenders:** Start-ups can submit bids for government contracts. They are exempt from the "previous experience/turnover" requirements that apply to regular businesses responding to government tenders.
f) **R&D facilities:** Seven new Research Parks will be established to provide facilities to R&D start-ups.
g) **No time-consuming compliances:** To save time and money, several compliances have been simplified for start-ups. Start-ups will be able to self-certify compliance with 9 labour and 3 environmental laws (for a list of white industries eligible for self-compliance") using the Start-up mobile app.
h) **Tax benefits for investors:** People who invest their capital gains in government-run venture funds will be exempt from capital gains taxes. This will assist start-ups in attracting further investors.
i) **Choose your investor carefully:** Following this idea, start-ups will be able to choose between VCs, allowing them to choose their own investors.

**(C). Legal frameworks for new businesses/start-ups.**

To create a new business, you'll need to take the following steps

**(1) Self-Assessment**

The purpose of self-certification is to relieve start-ups of regulatory burdens. In addition, start-ups may concentrate on their primary business.

**Benefits**

Through a simple online method, start-ups can self-certify compliance with 6 labour laws and 3 environmental laws.

- There will be no inspections for labour rules for a period of 5 years. Start-ups will only be inspected if the inspecting officer receives a credible and verified complaint of violation in writing.
- For environmental rules, start-ups that fall into the "white category" [as defined by the Central Pollution Control Board (CPCB)] would be permitted to self-certify compliance with just random checks.

**Labour Laws**

- The Building and Other Constructions Workers' (Regulation of Employment & Conditions of Service) Act, 1996
- The Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979
- The Payment of Gratuity Act, 1972
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Employees' State Insurance Act, 1948

**Environment Laws**

- The Water (Prevention & Control of Pollution) Act, 1974
- The Water (Prevention & Control of Pollution) Cess (Amendment) Act, 2003
- The Air (Prevention & Control of Pollution) Act, 1981

Notes: Eligibility to Self-Certification of the companies – (Department for Industrial Policy and Promotion) DPIIT recognised Start-ups that are within 5 years of incorporation.

**(2) Process of Registration**

- The start-up must register their business on the Ministry of Labour and Employment's "Shram Suvidha Portal."
- Login to the "Shram Suvidha Portal" after registering.
- After logging in successfully, go to the "Is Any of Your Establishment a Start-up?" link.
- Then simply follow the instructions to complete the registration.

**(3) Exemption from taxation under Section 80IAC**

For the first 10 years after incorporation, eligible start-ups are free from paying income tax for three years in a row.

**Eligibility for a tax benefit under Section 80IAC**

- The DPIIT should be able to recognise the entity.
- Section 80IAC exempts only private limited companies and limited liability partnerships from paying taxes.
- The company must have been formed on or after April 1st, 2016.

**(4) Registration Process**

- Register on the Start-up India website.
- Apply for DPIIT recognition after you've registered.
- Access the application for an exemption under Section 80 of the Internal Revenue Code.
- Fill in all fields and upload the papers listed below before submitting the application form.

**(5) Documents required**.

- Pvt. Ltd./LLP Deed Memorandum of Association
- Board of Directors Resolution (If Any).
- The start-annual up's accounts for the previous three financial years.
- IT returns for the previous three fiscal years Electronic Process following Application
- To check the status of your application, go to your dashboard on the Start-up India Portal. After logging in, this can be located in the top right corner of the website.
- If you have any questions, please contact us at dipp-startups@nic.in.

**(6) For availing Section 56 Exemption**

**Exemption under Section 56(2) (VIIB) of Income Tax Act**

- Section 56(2) VIIB of the Income Tax Act exempts investments in qualifying start-ups by listed firms with a net worth of more than INR 100 crore or a turnover of more than INR 250 crore.
- Accredited Investors, Non-Residents, AIFs (Category I), and listed firms having a net worth of more than 100 crores or a revenue of more than INR 250 crores are excluded under Section 56(2) (VIIB) of the Income Tax Act from making investments in qualified start-ups.
- The value of shares obtained by qualifying start-ups will be excluded up to a maximum of INR 25 crore.

**Eligibility for the Section 56 tax exemption**

- Should have been recognised as a DPIIT and should be a private limited corporation. To be recognised by DPIIT, click the "Get Recognised" button below.
- Investing in specific asset classes is not an option.
- Except in the regular course of business, a start-up should not invest in immovable property, transport vehicles over INR 10 lakh, loans and advances, or capital contributions to other organisations.

**(6) Application for a patent and an IPR**

The goal is to lower the cost and time it takes for a start-up to obtain a patent, making it financially viable for them to protect their ideas and motivating them to continue to innovate.

- Fast-tracking of Start-up Patent Applications — The applications will be accelerated in order to realise the value sooner.
- Panel of facilitators to assist with IP application filing-The facilitators will assist with application submission.
- Government to cover all facilitator fees-Under this proposal, the Central Government will cover all facilitator fees for whatever number of patents, trademarks, or designs that a Start-up files, leaving the Start-ups to pay only the statutory fees.
- Rebate on patent filing — In comparison to other businesses, start-ups will receive an 80 percent discount on patent filing. This will aid them in cutting costs throughout the early years.

**(7) Easy Company Dissolution**

- This is to make the start-ups' shut-down or wind-down operations easier. Entrepreneurs will be able to reallocate capital and resources to more productive channels more quickly as a result of this.

- Exit processes begin where their capital is stuck in case of business failure to allow entrepreneurs to experiment with new and inventive ideas without encountering difficulty.
- According to the Insolvency and Bankruptcy Code of 2016, businesses with basic debt structures can be wound up within 90 days of filing an insolvency petition.
- Within six months of such appointment, an insolvency expert can be appointed for the start-up, who will be in charge of the company, including the liquidation of its assets and payment of its creditors.

**Conclusion**

Start-ups have a long-term impact on a country's economy and way of living. By their unique contributions, Indian start-ups are changing the game, and India is providing a conducive/appropriate atmosphere for the growth and establishment of new start-ups. The government aims to create a scenario of "maximum governance and least government" through Start-up India and other flagship programmes released from time to time. The government hopes that by taking on this little role, it will be able to eliminate the procedural and regulatory barriers that block commercial operations. Entrepreneurs would be able to focus on their primary goals if there were fewer barriers to their establishment and operation, and their expansion would enhance the country's employment situation.

The success of the Start-up India campaign is dependent on efforts such as faster and easier company registration, self-certification for many legal criteria, three years of zero inspection, patent funding, and patent protection speed. It's critical to include procedures that help dead companies close within 90 days. Under the new bankruptcy bill, Indian legislators may be able to do so. The fundamental argument is that in the context of a high rate of start-ups mortality, ease of starting and ending is crucial. Given the enormous potential in nascent Indian start-ups, regulatory simplicity, widening vision, and reducing regulatory discretion are critical. A predictable regulatory environment is often hampered by sudden policy reforms that are implemented without or with minimal public consultation with stakeholders.

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