

Info Capsule

February 19, 2019



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

www.icsi.edu

SURESH PRABHU CLEARS PROPOSAL TO ENCOURAGE INVESTMENTS IN START-UPS¹ **DPIIT to Issue Notification Today**

Union Minister of Commerce & Industry and Civil Aviation, Suresh Prabhu has cleared a proposal aiming at simplifying the process of exemptions for Start-ups under Section 56 (2) (viib) of Income Tax Act. The Department for Promotion of Industry and Internal Trade (DPIIT) will be issuing a gazette notification today to this effect.

In order to catalyse entrepreneurship by enabling angel investments to innovators across all sections of society and all sectors of economy, a Gazette notification in partial modification of Gazette Notification number G.S.R 364 (E) dated April 11, 2018 was issued on 16.02.19. However, concerns were expressed regarding taxation of angel investments and there were issues that needed to be addressed to ensure availability of capital to Start-ups.

The Minister took up these issues with concerned officials and a roundtable was organized on 4th February, 2019 under the chairmanship of Secretary DPIIT with Start-ups, angel investors, and other stakeholders with a view to discuss the new measures undertaken by the Department to address the Angel Tax issue and understand the mechanism to deal with it institutionally.

With this notification, the definition of Start-ups will be expanded. Now an entity will be considered as a Start-ups upto a period of ten years from the date of incorporation and registration in place of the earlier duration of 7 years.

Similarly, an entity will continue to be recognised as a Start-ups, if its turnover for any of the financial years since incorporation and registration has not exceeded Rs. 100 crore in place of Rs. 25 crore earlier.

A Start-ups will be eligible for exemption under Section 56 (2) (viib) of Income Tax Act, if it is a private limited company recognized by DPIIT and is not investing in any of the following assets:

- i. building or land appurtenant thereto, being a residential house, other than that used by the Start-ups for the purposes of renting or held by it as stock-in-trade, in the ordinary course of business;
- ii. land or building, or both, not being a residential house, other than that occupied by the Start-ups for its business or used by it for purposes of renting or held by it as stock-in trade, in the ordinary course of business;
- iii. loans and advances, other than loans or advances extended in the ordinary course of business by the Start-ups where the lending of money is substantial part of its business;
- iv. capital contribution made to any other entity;
- v. shares and securities;

¹ Available at: <http://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1565168>

- vi. a motor vehicle, aircraft, yacht or any other mode of transport, the actual cost of which exceeds ten lakh rupees, other than that held by the Start-ups for the purpose of plying, hiring, leasing or as stock-in-trade, in the ordinary course of business;
- vii. jewellery other than that held by the Start-ups as stock-in-trade in the ordinary course of business;
- viii. any other asset, whether in the nature of capital asset or otherwise, of the nature specified in sub-clauses (iv) to (ix) of clause (d) of Explanation to clause (vii) of sub-section (2) of section 56 of the Act.

Consideration received by eligible Start-ups for shares issued or proposed to be issued shall be exempt up to an aggregate limit of Rs. 25 crore.

In addition, consideration received by eligible Start-ups for shares issued or proposed to be issued to a listed company having a net worth of Rs.100 crore or turnover of at least Rs. 250 crore will also be exempted.

The aggregate limit of Rs. 25 crore will exclude consideration received by eligible Start-ups for the following classes of persons:

- i. Non-Residents
- ii. Alternative Investment Funds- Category-I registered with SEBI
- iii. Listed company having a net worth of Rs.100 Crores or turnover of at least Rs. 250 crore provided that its shares are frequently traded as per SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Start-ups will file a duly signed declaration with DPIIT for availing exemption. The declaration will be transmitted by DPIIT to CBDT.