

# TAX FLASH NEWS

23 August 2019



## CBDT issues press release clarifying eligibility of small start-ups to avail deduction under Section 80-IAC of the Income-tax Act

### Background

The government launched the 'Startup India' initiative on 16 January 2016 to build a strong ecosystem for nurturing innovation and entrepreneurship. This measure of the government is helping to create large-scale job opportunities across sectors and increase the economic growth of the country.

Section 80-IAC of the Income-tax Act, 1961 (the Act) provides that the eligible start-up which is engaged in the eligible business shall be entitled for deduction, if (i) it is incorporated on or after 1 April 2016 (ii) its turnover does not exceed INR25 crore in the year of deduction, and (iii) it holds a certificate from the Inter-Ministerial Board of Certification (IMBC).

On 19 February 2019, the Department for Promotion of Industry and Internal Trade (DPIIT) had issued Notification [GSR 127(E)] whereby the definition of start-up was expanded. Therefore, an entity shall be considered as a start-up upto a period of ten years from the date of incorporation and registration in place of the earlier duration of seven years. Similarly, an entity shall be recognised as a start-up, if its turnover for any of the financial years since incorporation and registration has not exceeded INR100 crore in place of INR25 crore earlier.

As per media report, there was some confusion with respect to threshold of INR100 crore reflected in DPIIT's Notification because the Act provides threshold of INR25 crore.

### CBDT Press release<sup>1</sup>

On 22 August 2019, the Central Board of Direct Taxes (CBDT) has issued a press release stating that small start-ups with turnover upto INR25 crore will continue to get the promised tax holiday as prescribed in Section 80-IAC, which provides deduction for 100 per cent of income of an eligible start-up for three years out of

seven years from the year of its incorporation. CBDT further clarified that all the start-ups recognised by DPIIT which fulfilled the conditions specified in the DPIIT Notification did not automatically become eligible for deduction under Section 80-IAC. A start-up has to fulfil the conditions specified in Section 80-IAC for claiming the deduction. Therefore, the turnover limit for small start-ups claiming deduction should be determined by the provisions of Section 80-IAC and not from the DPIIT Notification.

CBDT states that there was no contradiction in DPIIT's Notification and Section 80-IAC. Para 3 of the said Notification clearly states that a start-up shall be eligible to apply for the certificate from the IMBC for claiming deduction under Section 80-IAC, only if the start-up fulfills the required conditions mentioned in the notification. CBDT states that Section 80-IAC was inserted vide Finance Act, 2016 as an exception to the Government's stated policy of phasing out profit-linked deduction for promoting small start-ups during their initial year of operation. Since the intention was to support the small start-ups, the turnover limit of INR25 crore was considered reasonable for granting profit-linked deduction.

### Our comments

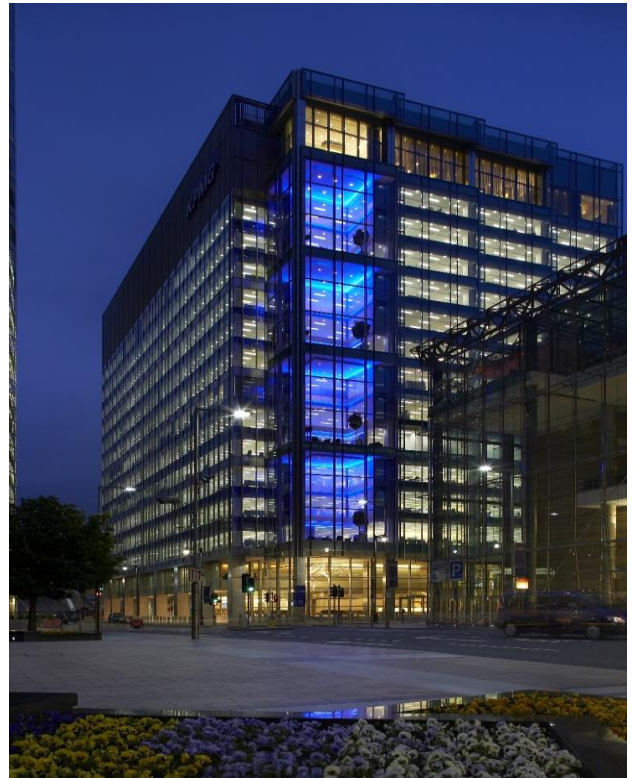
The government views start-ups as a key source of wealth creation and employment generation, and has been trying to incentivise entrepreneurship through initiatives such as start-up India. The government has rolled out many important measures for the start-ups.

One of such incentives, is the deduction under Section 80-IAC of the Act. Start-ups are eligible for 100 per cent deduction under Section 80-IAC for three out of seven years from the year of its incorporation if its turnover does not exceed INR25 crore in the year of deduction.

<sup>1</sup> CBDT press release, dated 22 August 2019

However, DPIIT Notification recognised INR100 crore as turnover in place of INR25 crore. To resolve this anomaly, CBDT issued a press release clarifying that only small start-ups with a turnover of up to INR25 crore will get tax benefit on fulfilling certain conditions. It does not recognise the INR100 crore turnover definition of a small start-ups provided by the DPIIT.

Perhaps government should consider to recognise the INR100 crore turnover limit as provided by the DPIIT Notification to boost start-up environment in India.



[home.kpmg/in](http://home.kpmg/in)

#### Ahmedabad

Commerce House V, 9th Floor,  
902, Near Vodafone House,  
Corporate Road,  
Pralhad Nagar,  
Ahmedabad – 380 051.  
Tel: +91 79 4040 2200

#### Bengaluru

Maruthi Info-Tech Centre  
11-12/1, Inner Ring Road  
Koramangala,  
Bengaluru – 560 071.  
Tel: +91 80 3980 6000

#### Chandigarh

SCO 22-23 (1st Floor),  
Sector 8C, Madhya Marg,  
Chandigarh – 160 009.  
Tel: +91 172 664 4000

#### Chennai

KRM Towers, Ground Floor,  
1, 2 & 3 Floor, Harrington Road,  
Chetpet, Chennai – 600 031.  
Tel: +91 44 3914 5000

#### Gurugram

Building No.10, 8th Floor,  
DLF Cyber City, Phase II,  
Gurugram, Haryana – 122 002.  
Tel: +91 124 307 4000

#### Hyderabad

Salarpuria Knowledge City,  
6th Floor, Unit 3, Phase III,  
Sy No. 83/1, Plot No 2,  
Serilingampally Mandal,  
Ranga Reddy District,  
Hyderabad – 500 081.  
Tel: +91 40 6111 6000

#### Jaipur

Regus Radiant Centre Pvt Ltd.,  
Level 6, Jaipur Centre Mall,  
B2 By pass Tonk Road,  
Jaipur – 302 018.  
Tel: +91 141 - 7103224

#### Kochi

Syama Business Centre,  
3rd Floor, NH By Pass Road,  
Vytilla, Kochi – 682 019.  
Tel: +91 484 302 5600

#### Kolkata

Unit No. 604,  
6th Floor, Tower – 1,  
Godrej Waterside,  
Sector – V, Salt Lake,  
Kolkata – 700 091.  
Tel: +91 33 4403 4000

#### Mumbai

1st Floor, Lodha Excelus,  
Apollo Mills,  
N. M. Joshi Marg,  
Mahalaxmi,  
Mumbai – 400 011.  
Tel: +91 22 3989 6000

#### Noida

Unit No. 501, 5th Floor,  
Advant Navis Business Park,  
Tower-A, Plot# 7, Sector 142,  
Expressway Noida,  
Gautam Budh Nagar,  
Noida – 201 305.  
Tel: +91 0120 386 8000

#### Pune

9th floor, Business Plaza,  
Westin Hotel Campus, 36/3-B,  
Koregaon Park Annex,  
Mundhwa Road, Ghorpadi,  
Pune – 411 001.  
Tel: +91 20 6747 7000

#### Vadodara

Ocean Building, 303, 3rd Floor,  
Beside Center Square Mall,  
Opp. Vadodara Central Mall,  
Dr. Vikram Sarabhai Marg,  
Vadodara – 390 023.  
Tel: +91 265 619 4200

#### Vijayawada

Door No. 54-15-18E,  
Sai Odyssey,  
Gurunanak Nagar Road, NH 5,  
Opp. Executive Club, Vijayawada,  
Krishna District,  
Andhra Pradesh – 520 008.  
Tel: +91 0866 669 1000

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2019 KPMG, an Indian Registered Partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

This document is meant for e-communication only