Marudhar Kesari Jain College for Women (Autonomous)

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Subject: Setting Up of Business Entities

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UNIT-I

Startups in India Startups-Evaluation-Definition of a Startup – Choice of business organisation-Types of business organisations – Factors governing selection of an organisation – Startups and its Registration-Startup India policy – Funding support and incentives – Indian states with Startup policies – Exemptions for startups – Life cycle of a Startup – Financing options available for Startups.

CHOICE OF A BUSINESS ORGANISATION

Business organisation refers to all necessary arrangements required to conduct a business in an optimized manner. It refers to all those steps that need to be undertaken for establishing and maintaining relationship between men, material, and machinery to carry on the business efficiently for earning profits. This may be called the process of planning and organising which are the integral part of the business management. The arrangement which follows this process of organising the factors required for commencing and carrying on the business is called a business undertaking or organisation.

Types of Business Entity

- Sole Proprietorship
- Partnership Limited Liability Partnership
- Hindu Undivided Family
- Branch Office
- Co operative Societies
- Company

Choosing a form of business entity is crucial to a successful organization. The choice of a business entity will depend on an object, nature and size of the business of such entity which will be varied from case-to-case basis and will also depend upon the will of the owners of the business entity which they want to accomplish. The main types of business entities in India are Sole Proprietorship, Partnership, Hindu Undivided Family (HUF) Business, Limited Liability Partnership (LLP), Co-operative Societies, Branch Office and Company which may be any kind of company including one person company (OPC), private limited company, public limited company, guarantee company, subsidiary company, statutory company, insurance company or unlimited company. Further, Company formed under section 8 of the Companies Act, 2013 or under section 25 of the earlier Companies Act of 1956 is a non-profit business entity. There can also be Association of Persons (AOP) and Body of Individuals (BOI), Corporation, Co-operative Society, Trust etc.

Types of Company

- Guarantee Company
- Public Limited Company
- Private Limited Company
- One Person Company
- Statutory Company
- Subsidiary Company Unlimited Company

Essentially, companies could be either private limited or public limited companies. Public limited companies could be unlisted or listed. Each entity must sit down and carefully consider all the advantages and disadvantages of each type of entity before choosing one of the form of business entity which suited best to the nature and size of the business which the entrepreneur / business owner desires to undertake. A business enterprise can be owned and organized in several forms. Each form of organization has its own merits and demerits. The ultimate choice of the form of business depends upon the balancing of the advantages and disadvantages of the various forms of business. The right choice of the form of the business is very crucial because it determines the power, control, risk and responsibility of the entrepreneur as well as the division of profits and losses. Being a long-term commitment, the choice of the form of business should be made after considerable thought and deliberation. The selection of a suitable form of business organisation is an important entrepreneurial decision because it influences the success and growth of a business — e.g., it determines the division or distribution of profits, the risk associated with business, and so on. Once a form of business organisation is chosen, it is very difficult to switch over to another form because it needs the winding up, dissolution of the existing organisation which may be treated as a case which is raised by oneself to face with the complex issues and procedures which ultimately results into the waste of time, effort and money. Further, closure of business will entail loss of business opportunity, capital and employment. The volume of risks and liabilities as well as the willingness of the owners to bear it, is also an important consideration in choosing the right business entity. Therefore, the form of business organisation must be chosen after giving the due thought and consideration in respect of all the sides of the glorious coin of each form of business entity and its suitability to the business ideas of an entrepreneur. There are several factors to be considered while selecting an appropriate form of business organisation. As discussed earlier, the different forms of private ownership organisation differ from each other in respect of division of profit, control, risk, legal formalities, flexibility, etc. Therefore, a thoughtful consideration should be given to this aspect of planning and only that form of organisation which most suited to the style of business should be chosen. Since the need for the selection of business organisation arises both initially, while starting a business, and at a later stage for meeting the needs of its growth and expansion, it is desirable to address this issue at both these levels

FACTORS GOVERNING THE DECISIONS FOR SUITABLE FORM OF ORGANISATION

For a new or proposed business, the selection of a suitable form of a business organisation is generally governed by the following factors:

1. **Nature of business activity**

This is an important factor having a direct bearing on the choice of a form of ownership. In small trading businesses, professions, and rendering of personal services , sole-proprietorship is predominant. Examples are Laundromats, beauty parlours, repair shops, consulting agencies, small retail stores, medicine stores, dentist, accounting concerns, boarding-house, restaurants, specialty ships, jobbing builders, painters, decorators, bakers, confectioners, tailoring shops, small scale shoe repairers and manufacturers, etc.

The partnership is suitable in all those cases where sole proprietorship is suitable, provided the business is to be carried on a slightly bigger scale with help of one or more partner (owner). Besides, partnership is also advantageous in case of manufacturing activities on a modest scale. The finance, trading and real estate industries (on a smaller scale) seem to be suited to partnership form of organisation. Some of the financial businesses that find this form advantageous are tax, accounting, stockbrokerage firms, and consulting agencies etc.

Service enterprises like hotels and lodging places; trading enterprises, such as wholesale trade, retail houses; small scale manufacturing enterprises, small drug manufacturers, etc. can be undertaken in the form of partnership. Similarly, the business lines such as carrying on large chain stores, multiple shops, super-bazaars, engineering industrial activities with high capital and working capital requirements and software industrial activities are generally in the form of companies.

Where the persons intending to start a business wish to launch a business organisation clothed with a legal entity and in corporate form with a feature of having their sole ownership and control thereon, they may decide to form a One-Person Company (OPC). OPC is a new concept in India and hybrid of Sole-Proprietor and Company form of business. The concept opens spectacular possibilities for sole proprietors and entrepreneurs as, such companies retain the character of a Sole Proprietorship, provides limited liability feature to the sole proprietor and is clothed with a legal entity distinct from its owner.

An alternative form of organisation where two or more persons are involved in starting the business organisation is the Limited Liability Partnership ('LLP') under the Limited Liability Partnership Act, 2008. Such entities have also gained popularity nowadays. A major advantage of such an entity is that the liabilities (if any), of the LLP lies with the entity and does not fall on the individual partners unlike the partnership form of business organisation under the Indian Partnership Act, 1932, where the joint and several liabilities of the parter(s) is one of the features.

In an LLP form, the liability of the Partner is limited to the extent of his contribution towards the LLP, except in case of intentional fraud or wrongful act of omission or commission by the partner himself. What is at stake for the partner is what he has put into the business along with any personal guarantees he would have furnished. However, such forms of business organisation are suitable generally in the service industry and where there is no dependence on large amounts of financing from outside sources. A One-Person Company (OPC), LLP and limited company exist as a separate business entity in the eyes of law and this creates a wall between the personal assets of the investor and that of the business. Thus, in these form of business organisations the personal property of the owner(s) is protected and this gives the owner(s) the ability to build the business credit, get loans and raise capital.

2. **Scale of operations**

The second factor that affects the form of business organisation is the scale of operations. If the scale of operations of business activities is small, sole proprietorship or a One Person Company (OPC) is suitable; if the scale of operations is modest — neither too small nor too large — partnership or limited liability partnership (LLP) is preferable; whereas, in case of large scale of operations, the company form is advantageous.

The scale of business operations depends upon the size of the market area served, which, in turn, depends upon the size of demand for goods and services. If the market area is small, local, sole-proprietorship, OPC or partnership is opted. If the demand originates from a large area, partnership including LLP or Company may be adopted.

3.Capital requirements

Capital is one of the most crucial factors affecting the choice of a particular form of ownership organisation. Requirement of capital is closely related to the type of business and scale of operations. Enterprises requiring heavy investment (like iron and steel plants, large scale infrastructure projects, etc.) should be organised as companies. Depending on the capital required, they can be set up as public companies and in some cases, may be in the form of listed companies by raising money from the public and being listed on the stock exchanges. Enterprises requiring small investment (like retail business stores, personal service enterprises, etc.) can be best organised as sole proprietorships or even as Partnerships. Apart from the initial capital required to start a business, the future capital requirements—to meet modernisation, expansion, and diversification plans —also affect the choice of form of organisation. In sole proprietorship, the owner may raise additional capital by borrowing, by purchasing on credit, and by investing additional amounts himself. Banks and suppliers, however, will look closely at the proprietor’s individual financial resources before sanctioning any loans or advances. Partnerships can often raise funds with greater ease, since the resources and credit of all partners are combined in a single enterprise. Companies are usually best able to attract capital because investors are assured that their liability will be limited, their operations are in public domain in the transparent manner, easily accessible and the ownership can be transferred to other investors.

4.Managerial Ability

It is difficult for a sole proprietor to have expertise in all functional areas of business. Further, the size of the business may not permit engagement of professional management. In other forms of organizations like partnership and company, there is division of work among the partners which allows the partners to specialize in specific areas, leading to better outputs and decision making. However, this may sometimes lead to conflicts due to differences of opinion. Company form of organization is a better alternative if the operations are far flung, complex in nature and require professional management at various levels.

5. Degree of control and management

The degree of control and management that an entrepreneur desires to have over business affects the choice of form of organisation. In sole proprietorship and OPC, ownership, management, and control are completely fused, and therefore, an entrepreneur has complete control over his business. In partnership, management and control of business is jointly shared by the partners and their specific rights, duties and responsibilities would be documented through incorporating various clauses in this regard in the partnership deed. They have equal voice in the management of partnership business except where they agree to divide among themselves the business responsibilities in a different manner. Even then, they are legally accountable to each other. In a company, however, there is divergence between ownership and management, the management and control of the company business is entrusted to the Board, who are generally the elected representatives of shareholders. Thus, a person wishing to have complete and direct control of business prefers proprietary organisation rather than partnership or company. If he is prepared to share it with others, he will choose partnership. But, if the activities are large, professional managers are required to handle the day to day affairs and there is need for corporate structure and management, he will prefer the company form of organisation.

6. Degree of risk and liability

The size of risk and the willingness of owners to bear it, is an important consideration in the selection of a form of business organisation. The amount of risk involved in a business depends, among other factors like, on the nature and size of business. Smaller the size of business, smaller the amount of risk. Thus, a sole proprietary business carries small amount of risk with it as compared to partnership or company. However, the sole proprietor is personally liable for all the debts of the business to the extent of his entire property. Likewise, in partnership, partners are individually and jointly responsible for the liabilities of the partnership firm. Companies and LLPs have a real advantage, as far as the risk is concerned, over the other forms of business organisation. Creditors can force payment of their claims only to the limit of the company's and LLPs assets. Thus, while a shareholder/member/partner may lose the entire money he puts into or agreed to put into the company and LLP, he cannot be forced to contribute additional funds out of his own pocket to satisfy the business debts of the company and LLP.

7. Stability of business

Stability of business is another factor that governs the choice of an ownership organisation. A stable business is preferred by the owners in so far as it helps him in attracting suppliers of capital who look for safety of investment and regular return, and also helps in getting competent workers and managers who look for security of service and opportunities of advancement. From this point of view, sole proprietorships are not stable, although no time limit is placed on them by law. The illness of owner may derange the business and his death cause the demise of the business. Partnerships are also unstable, since they are terminated by the death, insolvency, insanity, retirement, admission, expulsion or withdrawal of/ by one of the partners. Companies and LLPs have the most business stability due to its feature or perpetuity being an artificial or legal person. The life of the company and LLP is not dependent upon the life of its members/partners. Members/partners may come, members/partners may go, but the company/LLP goes on forever unless and until it being wound up.

8. Flexibility of administration

As far as possible, the form of organisation chosen should allow flexibility of administration. The flexibility of administration is closely related to the internal organisation of a business, i.e., the manner in which organisational activities are structured into departments, sections, and units with a clear definition of authority and responsibility. The internal organisation of a sole proprietary business, for instance, is very simple, and therefore, any change in its administration can be effected with least inconvenience and loss. To the large extent, the case is the same in a partnership business also. While, in case of company, administration is not that flexible because its activities are conducted on a large scale and they are quite rigidly structured. Any substantial change in the existing line of business activity — say from cotton textiles to sugar manufacturing — may not be permitted by law if such a provision is not made in the 'objects clause' of the Memorandum of Association of the company. Thus, from flexibility point of view, sole proprietorship has a distinct edge over other forms.

9. Division of profit

Profit is the guiding force of private business and it has a tremendous influence on the selection of a particular form of business organisation. An entrepreneur desiring to pocket all the profits of business will naturally prefer sole proprietorship.

Of course, in sole proprietorship, the personal liability is also unlimited. But, if he is willing to share the profits, partnership form of organisation would be preferred. In company organisation, however, the profits (whenever the Board of Directors decides) are distributed among shareholders in proportion to their shareholding, but the liability of the shareholders is also limited. The rate at which dividend is to be distributed is decided by the Board, though approved by the shareholders. Companies may also reward shareholders by issue of bonus shares. In case of listed companies, the equity shares are tradeable on the stock exchanges, enabling the shareholders to exit the company at any time as per their own discretion.

10. Costs, procedure, and government regulation

This is also an important factor that should be taken into account while choosing a particular form of organisation. Different forms of organisation involve different procedure for establishment and are governed by different laws which affect the immediate and long-term functioning of a business enterprise. From this point of view, sole proprietorships are the easiest and cheapest to get started. There is no government regulation. What is necessary is the technical competence and the business acumen of the owner and the requirement of meeting tax liabilities. Partnerships are also quite simple to be initiated. Even a written document is not necessarily a prerequisite since an oral agreement can be equally effective. However, in actual practice, written partnership deed is usually entered into, as it is needed for registration of the firm and for tax authorities. The procedure for dissolution of partnership is also, relatively simple. Company form of business organisation is more complicated to form. It can be created by law, dissolved by law, and operate under the express provisions of the law. In the formation of a company, a number of legal formalities have to be gone through which entails, at times, quite a substantial amount of expenditure. Further, various formalities have to be complied with for closure of companies. Non - payment of dues may land the company into insolvency or liquidation. For example, the cost incurred on the drafting of the Memorandum of Association, the Articles of Association, the Prospectus, issuing of share capital, etc. can be quite high. This cost is however, small in case of private companies. Besides, companies are subjected to a large number of anti-monopoly and other economic laws so that they do not hamper the public interest.

11. Tax implication

In the choice of the form of business organisation, tax implication plays an important factor. In smaller entities, such as sole proprietorship or partnership, tax liability is dependent on the extent of profits. However, the liability of the owner(s) is unlimited. In case of companies or LLPs the liability of shareholders is limited to the value of shares they have purchased. In case of companies or LLPs, tax liability could be higher.

The applicable tax rates for different forms of business organisation are summarised below:

(i) Sole Proprietorship

In case of sole proprietorship (where the age of the proprietor is less than 60 years), the income tax rates for assessment year 2019-20 is Nil for taxable income upto Rs.2,50,000, 5% for taxable income between Rs.2,50,000 to Rs.5,00,000, 20% for taxable income between Rs.5,00,000 to Rs.10,00,000 and 30% for taxable income above Rs.10,00,000.If the proprietor is between 60 years & 80 years, upto 300,000, income tax rate is Nil. If the proprietor is above 80 years of age, more tax concession is available , upto 5,00,000 , Income Tax if Nil.

(ii) Partnership firm

Partnership firms in India can be divided into two categories namely, registered partnership or unregistered partnership. Registered partnership firms are those firms having a registration certificate from the Registrar of Firms. All other partnerships that do not have a registration certificate would be classified as an unregistered partnership firm. Under Income Tax Act, a partnership firm is defined as "Persons who have entered into a partnership with one another are called individually "partners" and collectively "a firm", and the name under which their business is carried on is called the "firm name". Partnership firms (including Limited Liability Partnership Firm) are liable to pay income tax at the rate of 30% of total income. In addition to the income tax, a partnership firm is liable to pay income tax surcharge on the amount of income tax at the rate of 12%, when total income exceeds Rs. 1 crore. However, the surcharge shall be subject to marginal relief (where income exceeds one crore rupees, the total amount payable as income-tax and surcharge shall not exceed total amount payable as income-tax on total income of one crore rupees by more than the amount of income that exceeds one crore rupees).

In addition to the income tax and surcharge, a partnership firm must pay

(a) education cess at the rate of 2% on tax plus surcharge;

(b) secondary and higher education cess at the rate of 1% on tax plus surcharge.

(c) The above-mentioned cess is applicable on the amount of income tax and the applicable surcharge at the rate of 1%. Similar to a private limited company or LLP, partnership firms are also required to pay alternate minimum tax at the rate of 18.5% of "adjusted total income". Alternate minimum tax would be increased by the applicable surcharge, education cess and secondary and higher education cess.

(iii) Domestic Company

Net Profit of a domestic company (including a Limited Liability Partnership to which the Income Tax rates for domestic companies is applicable) is taxable at 30%. However, tax rate is 25% if turnover or gross receipt of the company in the previous year 2018-19 does not exceed 250 crore. In addition, there is: (a) Surcharge at 7% of tax where total income exceeds Rs.1 crore and below Rs.10 Crores and 12% of tax where total income exceeds Rs.10 crores and (b)

Education Cess at 2% of tax plus surcharge (c) Secondary and Higher Education Cess at 1% of income tax and surcharge.

(iv) Co-operative Society

The tax rate is 10% for taxable income upto Rs.10,000, 20% for taxable income between Rs.10,000 to Rs. 20,000 and 30% for taxable income above Rs.20,000. In addition, there is: (a) Surcharge at 12% of tax where total income exceeds Rs. 1 crore; However, the surcharge shall be subject to marginal relief (where income exceeds one crore rupees, the total amount payable as income-tax and surcharge shall not exceed total amount payable as income-tax on total income of one crore rupees by more than the amount of income that exceeds one crore rupees). (b) Education Cess at 2% of tax plus surcharge (c) Secondary and Higher Education Cess at 1% of income tax and surcharge.

12. Geographical mobility

The extent to which the product or service is proposed to be manufactured or made available also plays a vital role in choosing the type of business organisation. If a concern deals with local market, a seasonal product or perishable goods, or is meant to cater to a specific city or locality, then sole proprietorship or partnership form of business may be suitable. If it is proposed to market the product or service all over India (which may also entail providing customer support services), a company form of organisation may be preferred.

13. Transferability of ownership

Sole proprietorship, being a one-person entity does not lend itself to transferability of ownership as the owner himself enjoys the profits and suffers the losses in his business. Partnership form of organisation is one where two or more partners share the profits and/or losses in the agreed proportion. If a partner exits, the partnership, may decide to induct a new partner with benefits of ownership and share of profits or losses. In the company form of organisation, transfer of ownership is possible by transfer of shareholding by any person or group of persons in favour of another person or group of persons.

14. Managerial Needs

Managerial and administrative requirements also affect the decision about the form of organisation. When the concern is small and it caters to local needs only then one person will be enough to manage the business. Sole – proprietorship form of organisation will be suitable for such a business. If business caters to more areas, then more persons will be needed to look after various business functions in various areas. When a business is run on a large – scale basis, it will require the services of specialists to manage various departments. The company form of organisation will be suitable for such concerns.

15. Secrecy

Secrecy is of supreme importance, particularly in small business concerns. Accordingly, the entrepreneur would select the sole proprietorship for that reason. In case, he has partners, he will have to carefully weigh whether other partners will be able to maintain the secrecy. He will have to exercise great care in taking partners. In case of a company, secrecy may be restricted to the manufacturing process or the manner in which business is conducted. However, certain aspects of their business such as their board of directors, shareholding, financial statements and other information which are statutorily required to be placed in public domain are accessible to any person.

16. Independence

The company is subject to strict government regulations. So, if the entrepreneur wants to have a freedom in business with little governmental interference, he has to go for either sole proprietorship or partnership.

various factors listed above clearly shows that:

(a) These factors do not exist in isolation, but are interdependent, and all these factors are important in their own right. Nevertheless, the factors of nature of business and scale of operations are the most basic ones in the selection of a form of ownership for setting up of a business organisation. All other factors are dependent on these basic considerations. For instance, the financial requirements of a business will depend on the nature of business and the scale of operations planned. To take an example, if a business wants to set up a trading enterprise (say, a retail store) on a small scale, his financial requirements will be small.

(b) The various factors listed above are only major factors, and in no case they constitute an exhaustive list. Depending upon the requirements of the business, the demands of the situation and sometimes even the personal preference of the owner, the choice of a form of ownership is made.

(c) The problem in choosing the best form of business organisation is one of the analysing and weighing relative advantages and disadvantages to find the one that will yield the highest net advantage. And for that, weights may be assigned to different factors depending upon their importance in each form of organisation, and the type of organisation that obtains the maximum weights may be ultimately selected.

STARTUPS

Introduction

A startup company (startup or start-up) is an entrepreneurial venture which is typically an emerging, fast growing business that aims to solve an unmet need by developing a viable business model around an innovative product, service, processor a platform. A startup is usually a company designed to effectively develop and validate a scalable business model. Start-ups may have high rates of failure, but the minority of successes includes companies that have become large and influential.

Meaning

A Start Up is that it is a new business venture providing services or products to an existing and growing market. A startup is in the first stage of operations and comprises one or more entrepreneurs. The primary aim is to answer market demand by creating new and innovative products or services. While most small businesses might intend to stay small, a startup focuses on fast growth in a designated market. Usually, such companies start as an idea and gradually grow into a viable product, service or platform.

Startups begin with high costs and have limited revenue. Also, they do not have a developed business model and lacks adequate capital to move to the next phase. As a result, these companies seek funding from various sources, such as venture capitalists, angel investors and banks. Investors or lenders might offer additional funds for a share of future profits and partial ownership. Often, these companies use seed capital for investing in research and developing business plans. Research helps them determine the demand for a specific product and a business plan outlines the company's goals and marketing strategies.

Evolution

Startup companies can come in all forms and sizes. Some of the critical tasks are to build a co-founding team to secure key or complementary skills, know-how, financial resources, and other elements to build the product for the target market. Typically, a startup will begin by building a first minimum viable product (MVP), a prototype, to validate, assess and develop the new ideas or business concepts. In addition, startups founders do research to deepen their understanding of the ideas, technologies or business concepts and their commercial potential. A Founders' agreement are often agreed early on to confirm the commitment, ownership and contributions of the founders and to deal with the intellectual properties and assets that may be generated by the startup. A Shareholders' Agreement (SHA) is entered into between the founders and investors to confirm investment terms, rights of investors, exit clauses and any other important agreement terms. Business models for startups are generally found via a "bottom-up" or "top-down" approach. A company may cease to be a startup as it passes various mile stones, such as becoming publicly traded on the stock market in an Initial Public Offering (IPO), or ceasing to exist as an independent entity via a merger or acquisition. Companies may also fail and cease to operate altogether, an outcome that is very likely for startups, given that they are developing disruptive innovations which may not function as expected and for which there may not be market demand, even when the product or service is finally developed. Given that startups operate in high-risk sectors, it can also be hard to attract investors to support the product/ service development or attract buyers.

A number of organisation and/or organised activities exist with Startup activities. To name a few, Universities, Advisory and mentoring organizations Startup incubators, Startup accelerators, Co working spaces, Service providers(Consulting, Accounting, Legal, etc.), Event organizers, Start-up competitions, Startup Business Model Evaluators, Business Angel Networks, Venture capital companies, Equity Crowd funding portals, corporates (telcos, banking, health, food, etc.), other funding providers (loans, grants etc.), Start-up blogs and social networks and other facilitators. Investors from these roles are linked together through shared events, activities, locations and interactions.

Startup ecosystems generally encompass the network of interactions among people, organizations, and their environment. Any particular start-up ecosystem is defined by its collection of specific cities or online communities. In addition, resources like skills, time and money are also essential components of a start-up ecosystem. The resources that flow through ecosystems are obtained primarily from the meetings between people and organizations that are an active part of those startup ecosystems. These interactions help to create new potential startups and/or to strengthen the already existing ones.

Types of Startups

A startup company's purpose is to create products that target an untapped market or improve the existing one. Before working in a startup, understanding the types of startups is essential. These six types are:

Scalable startups

Often, companies working in the technology domain belong to the scalable startup group and these companies work hard to rapidly grow and achieve a high return on investment (ROI). This type of startup requires extensive market research to determine untapped market opportunities. Some examples of this type of startup are consumer and business apps. This startup model requires external capital to generate demand and ensure company expansion. Scalable startups do this by raising capital from external investors.With the investment they receive, a startup can support growth initiatives and focus on grabbing the target market's attention. A scalable startup is a right choice if a business product or service has an untapped market and offers vast growth potential.

Small business startups

The purpose of a small business startup is longevity rather than scalability. While these businesses have an interest in growth, they grow at their own pace. Business owners usually bootstraps and self-finance these startups. This means that they have less pressure to scale. Some examples of small business startups include hairdressers, grocery stores, travel agents and bakers. Also, many of these startups are family-owned. A small business startup is a right choice if a business plans to hire locals and family members to operate a business or create a sustainable and long-lasting business.

Social entrepreneurship startups

Unlike other types of startups, a social entrepreneurship startup does not focus on wealth generation for the founders. Instead, they build such a business to change the environment and society positively. Some examples of these companies include charities and non-profit organisations. These companies usually scale for doing philanthropy activities. Though they operate like other startups, they do it through donations and grants. A social startup is a right choice if a business plans to create a positive environmental or social impact or if the company has an idea of solving a widespread social problem.

Large company startups

A large company or offshoot startup includes large companies that have been in operation for a long time. Companies that fit into this category start with revolutionary products and quickly become famous. As big businesses are self-sufficient, they grow along with new market demands and trends. For this reason, it is essential for these companies to keep up with changes to sustain themselves. Backed by support and capital, these offshoot startups focus on diversifying product offerings and plans to reach new audiences. An offshoot startup is a right choice if a business owns a large company or wants to penetrate a new market that is not the business's primary focus.

Lifestyle startups

People who have hobbies and want to pursue their passion can build a lifestyle startup. Often, these business owners desire independence and spend their energy, money and time building a startup. These business owners earn money by pursuing their favourite hobby or activity. Some examples of lifestyle startups include a dancer opening a dance school, an avid traveller starting a touring company or a software developer starting online coding classes.A lifestyle startup is a right choice if a business owner has a hobby they can pursue or is passionate and creative about starting a new business on their hobby.

Buyable startups

Unlike other startups on this list, buyable startups do not aim to become large and successful. A business owner builds such a company from scratch to sell it to a big company. Usually, you are likely to find such companies in the technology and software industry. Many of these startup industries are in the mobile application development industry. A buyable startup is a right choice if a business owner wants to develop a company but do not want to operate it long term or if the business idea has tremendous growth potential.

STARTUP INDIA POLICY

- **Start-ups policies;**
- **Government initiatives**
- **Exemptions for Start-ups**
- **Tax benefits**
- **Cooling period for start ups**

Startup India campaign is based on an action plan aimed at promoting bank financing for start-up ventures to boost entrepreneurship and encourage start ups with jobs creation. The campaign was first announced by Prime Minister Narendra Modi in his 15 August 2015 address from the Red Fort. The Government of India has announced 'Startup India' initiative for creating a conducive environment for startups in India. The various Ministries of the Government of India have initiated a number of activities for the purpose.

To bring uniformity in the identified enterprises, an entity shall be considered as a 'startup'-

(a) Up to five years from the date of its incorporation/registration,

(b) If its turnover for any of the financial years has not exceeded Rupees 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; Any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a 'startup'.

An entity shall cease to be a startup on completion of five years from the date of its incorporation/registration or if its turnover for any previous year exceeds Rupees 25 crore. The words "entity" means a private limited company as defined in the Companies Act, 2013, or a registered partnership firm registered under section 59 of the Partnership Act, 1932 or a limited liability partnership under the Limited Liability Partnership Act, 2002.

The words "Turnover" is as defined under the Companies Act, 2013 An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property if it aims to develop and commercialize:

a. a new product or service or process, or

b. a significantly improved existing product or service or process, that will create or add value for customers or workflow

Process of Recognition of Startup

The process of recognition as a 'startup' shall be through mobile app/portal of the Department of Industrial Policy and Promotion.

Startups will be required to submit a simple application with any of following documents:

(a) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator established in a post-graduate college in India; or

(b) a letter of support by any incubator which is funded (in relation to the project) from Government of India or any State Government as part of any specified scheme to promote innovation; or

(c) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator recognized by Government of India; or

(d) a letter of funding of not less than 20 per cent in equity by any Incubation Fund/Angel Fund/Private Equity Fund/Accelerator/Angel Network duly registered with Securities and Exchange Board of India that endorses innovative nature of the business. or

(e) a letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or

(f) a patent filed and published in the Journal by the Indian Patent Office in areas affiliated with the nature of business being promoted. Department of Industrial Policy and Promotion may, until such mobile app/portal is launched, make alternative arrangement of recognizing a 'startup'.

Once such application with relevant document is uploaded, a real-time recognition number will be issued to the startup. If on subsequent verification, such recognition is found to be obtained without uploading the document or uploading any other document or a forged document, the concerned applicant shall be liable to a fine which shall be fifty per cent of paid up capital of the startup but shall not be less than Rupees 25,000. A startup is an entity that is headquartered in India which was opened less than seven years ago and has an annual turnover less than Rs. 25 crore. The government has already launched iMADE, an app development platform aimed at producing 1,000,000 apps and PMMY, the MUDRA Bank, a new institution set up for development and refinancing activities relating to micro units with a refinance Fund of Rs. 200 billion

Key Points to remember

- Single Window Clearance even with the help of a mobile application
- 10,000 crore fund of funds • reduction in patent registration fee
- Modified and more friendly Bankruptcy Code to ensure 90-day exit window
- Freedom from mystifying inspections for 3 years
- Freedom from Capital Gain Tax for 3 years
- Freedom from tax in profits for 3 years
- Self-certification compliance
- Innovation hub under Atal Innovation Mission
- Starting with 5 lakh schools to target 10 lakh children for innovation programme
- new schemes to provide IPR protection to start-ups and new firms
- encourage entrepreneurship

Steps to Register Your Startup with Startup India

Step 1: Incorporate your Business

You must first **incorporate your business as** a Private Limited Company, Partnership firm or a Limited Liability Partnership. You have to follow all the normal procedures for registration of any business like submitting the registration application and obtaining the Certificate of Incorporation/Partnership registration.

You can incorporate a Private Limited Company or a Limited Liability Partnership (LLP) by filing the registration application to the Registrar of Companies (ROC) of your region. You can establish a Partnership Firm by filing the application for registration of your firm with the Registrar of Firms of your area. You need to submit the required documents and fees to the Registrar of Companies or Registrar of Firms along with the registration application.

Step 2: Register with Startup India

Then the business must be registered as a startup. The entire process is simple and online. Visit the Startup India website and click on the 'Register' button. Next, enter the OTP which is sent to your email and other details like, the type of user, name and stage of the startup, etc., and click on the 'Submit' button. After entering these details, the Startup India profile is created.

Once your profile is created on the website, startups can apply for various acceleration and incubator/mentorship programmes on the website, along with getting access to learning resources, funding options, government schemes and market access.

Step 3: Get DPIIT Recognition

The next step after creating the profile on the Startup India Website is to avail the Department for Promotion of Industry and Internal Trade (DPIIT) Recognition. This recognition helps the startups to avail benefits like access to high-quality intellectual property services and resources, relaxation in public procurement norms, self-certification under labour and environment laws, easy winding of company, access to Fund of Funds, tax exemption for 3 consecutive years and tax exemption on investment above fair market value.

For getting DPIIT Recognition, log in with your registered profile (account) credentials on the Startup India website and click on the 'Apply for DPIIT Recognition' option under the 'Recognition' tab.

Step 4: Recognition Application

On the 'Startup Recognition Form', you need to fill the details such as the entity details, full address (office), authorised representative details, directors/partner details, information required, startup activities and self-certification. Click on the plus sign on the right-hand side of the form and enter each section of the form.

Step 5: Documents for Registration

- Incorporation/Registration Certificate of your startup
- Proof of funding, if any
- Authorisation letter of the authorised representative of the company, LLP or partnership firm

- Proof of concept like pitch deck/website link/video (in case of a validation/ early traction/scaling stage startup)
- Patent and trademark details, if any
- List of awards or certificates of recognition, if any
- PAN Number

Step 6: Recognition Number

On applying Applicant will get a recognition number for your startup. The certificate of recognition will be issued after the examination of all documents which is usually done within 2 days after submitting the details online

Step 7: Other Areas

Patents, trademarks and/or design registration: If you need a patent for your innovation or a trademark for your business, you can easily approach any from the list of facilitators issued by the government. You will need to bear only the statutory fees thus getting an 80% reduction in fees.

Funding: One of the key challenges faced by many startups has been accessing finance. Due to lack of experience, security or existing cash flows, entrepreneurs fail to attract investors. Besides, the high-risk nature of startups, as a significant percentage fail to take off, puts off many investors.

In order to provide funding support, the Government has set up a Startup India Seed Fund Scheme (SISFS) on 21.01.2021 with an outlay of Rs.945 crore to provide financial assistance to startups in the next 4 years.

Self Certification Under Employment and Labour Laws: Startups can self certify under labour laws and environment laws so that their compliance costs are reduced. Self-certification is provided to reduce regulatory burden thereby allowing them to focus on their core business. Startups are allowed to self-certify their compliances under 6 labour laws and 3 environment laws for a period of 3 to 5 years from the date of incorporation.

Units operating under 36 white category industries as published on the website of the Central Pollution Control Board do not require clearance under 3 environment-related Acts for 3 years.

Tax Exemption: Startups are exempted from income tax for 3 years. But to avail these benefits, they must be certified by the Inter-Ministerial Board (IMB). The Startups incorporated on or after 1st April 2016 can apply for the income tax exemption.

Indian States with startup policies

The Department of Industrial Policy and Promotion conceived the States Startup Ranking Framework with the key objective to encourage States and Union Territories to take proactive steps towards strengthening the enabling Startup ecosystems within their jurisdictions. There are 38 action points categorized into 7 broad pillars such as Startup Policy and implementation, Incubation support, Seed Funding, Angel and Venture Funding, Simplification of Regulations, Easing Public Procurement and Awareness & Outreach. The ranking methodology is aimed at creating healthy competition among States to further learn, share and adopt best practices.

The entire exercise has been conducted in essence as a capacity development exercise for the States in the true spirit of cooperative federalism. Awareness Workshops in all States, Knowledge Workshops at 3 leading incubators, Pairing of States for intensive mentoring, International Exposure Visits to US and Israel and intensive engagement with States through assignment of specific resources from Startup India Team and regular Video Conferencing have helped many States appreciate and initiate effective measures for supporting Startups.

A total of 27 States and 3 Union Territories participated in the exercise. Evaluation Committees comprising independent experts from Startup ecosystem have done a painstaking assessment of responses across various parameters. Many parameters involved getting feedback from beneficiaries. More than 3200 calls were made in 9 different languages to empathetically connect with beneficiaries to get a real pulse at the implementation level.

Few State Governments have also taken initiatives and launched startups policies for their states. A few of these states include:

West Bengal: West Bengal launched its policies relating to startups in January 2016. It aims to nurture and help startups in various ways. They have launched a website by the name of startupbengal.in in an effort to get all the stakeholders in that community on a single platform. With this initiative, communication between startups, investors, service providers etc is expected to become easier and smoother. These policies will be in effect until December 2021.

Uttar Pradesh: The Government in this State is working to get more IT investment into the state and promoting upcoming startups in this particular segment.

Odisha: The government of Odisha has launched its policy with a vision of making Odisha one of the top three investment destinations in India. To achieve their goal they have come up with a 10-year plan, which will work till 2025. The Government has announced its plan along with "Make In India" in February, 2016.

Rajasthan: Rajasthan launched its plans in October, 2015. The Government plans to help set up around 500 startups within the next five years. For this purpose, they have allocated funding and also plan to set up around 50 incubators across the state. With their efforts, they plan to bring in a funding of around Rs. 500 crores in the next 5 years.

Karnataka: Karnataka has a setup a 5-year plan with very specific goals and targets which they hope to achieve by the end of the plan. They want to have at least 25 technology related startups that aim to solve the social problems faced by the state. Along with this, they want around 2000 startups focused just on technology and 600 startups based on products. With their policies, they are aiming to create around 18 lakh jobs in the state itself.

Gujarat: They have a threefold strategy which involves the innovators, the Institutions, and the government committee. These three form a chain, wherein the innovators come up with the idea which will be facilitated by the institutions and then approved and financed by the government committee.

Jharkhand: Jharkhand is the most recent entrant in Indian states with startup policy. The state government has facilitated $1.5 Mn (INR 10 Cr) for Innovation and Incubation Centres in different part of states. An innovation lab would also be set up with the help of IIM Ahmedabad. With this startup policy initiative, the state government aims to encourage the startups in the sectors like Information Technology, Health, Tourism, Agriculture, Biotechnology, and alternative energy.

EXEMPTIONS FOR STARTUPS

To promote growth and help Indian economy, many benefits are being given to entrepreneurs establishing startups.

1.Simple process

Government of India has launched a mobile app and a website for easy registration for startups. Anyone interested in setting up a startup can fill up a simple form on the website and upload certain documents. The entire process is completely online.

2. Reduction in cost

The government also provides lists of facilitators of patents and trademarks. They will provide high quality Intellectual Property Right Services including fast examination of patents at lower fees. The government will bear all facilitator fees and the startup will bear only the statutory fees. They will enjoy 80%reduction in cost of filing patents.

3. Easy access to Funds

A10,000 crore rupees fund is set-up by government to provide funds to the startups as venture capital. The government is also giving guarantee to the lenders to encourage banks and other financial institutions for providing venture capital.

4.Tax holiday for 3 Years

Startups will be exempted from income tax for 3 years provided they get a certification from Inter-Ministerial Board (IMB).

5. **Apply for tenders**

Startups can apply for government tenders. They are exempted from the "prior experience/turnover" criteria applicable for normal companies answering to government tenders.

6. R&D facilities

Seven new Research Parks will be set up to provide facilities to startups in the R&D sector.

7. No time-consuming compliances

Various compliances have been simplified for startups to save time and money. Startups shall be allowed to self-certify compliance (through the Startup mobile app) with 9 labour and 3 environment laws.

8. Tax saving for investors

People investing their capital gains in the venture funds setup by government will get exemption from capital gains. This will help startups to attract more investors.

9. Choose your investor

The startups will have an option to choose between the VCs, giving them the liberty to choose their investors.

10. Easy exit

In case of exit, a start up can close its business within 90 days from the date of application of winding up

11. Meet other entrepreneurs

Government has proposed to hold 2 startup fests annually both nationally and internationally to enable the various stakeholders of a startup to meet. This will provide huge networking opportunities.

Tax Exemptions for the Startups, Effective from 2017-18

Following tax exemptions for the startups had been introduced that was made effective from 2017-18.

The proposed incentives and exemptions are:

• Under Section 80-IAC, the Startup incorporated after April 1, 2016 is eligible for getting 100% tax rebate on profit for a period of three years. The startups recognized under the Startup India policy can now claim tax benefits in three out of the first seven years under Section 80-IAC of the Income-tax Act, 1961. Also, the annual turnover must not exceed Rs. 25 crores in any financial year up to 31 March 2021.

• The startups have to pay Minimum Alternate Tax [MAT] at 18.5% along with the applicable surcharge and cess. The FM has assured to provide MAT exemptions for the first 5 years in case the startup fails to make any profit

- Exemptions have been made against capital gains. Long term capital gains (LTCG) will be invested by the Government's special funds within a period of six months from the date of transfer of the asset. The investment may go up to INR 50 Lakh and the exemptions will be applied for three years

• If the individual holds 50% equity then the company may utilize the invested amount for buying assets before the due date of filing the return.

• The domestic companies who hold turnover less than INR 5 Crore in the FY 2014-15 will be liable for 29% tax along with surcharge and other cess. It will be covered under the chapter VI-A

• The Finance Minister has also proposed different taxes for the new domestic manufacturing companies that have been setup on or after 1st March, 2016. Such companies will be taxed at 25% plus with cess and surcharge. The tax is proposed on the condition that the company do not claim any incentive under profit or investment.

Benefits/Exemptions to Start-ups under Companies Act, 2013

1. By Notification No. GSR.583(E) dated June 13, 2017 an explanation has been inserted in Clause 40 of Section 2 of the Companies Act, 2013 which provides the definition of a "Start up" or "start-up company." It states that "For the purposes of this Act, the term "start-up" or "start-up company" means a private company incorporated under the Companies Act, 2013 (18 of 2013) or the Companies Act, 1956 (1 of 1956) and recognised as start-up in accordance with the notification issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry."

2. The Companies (Acceptance of Deposit) Rules, 2014 have been amended to provide that an amount of twenty five lakh rupees or more received by a start-up company, by way of a

convertible note (convertible into equity shares or repayable within a period not exceeding five years from the date of issue) in a single tranche, from a person shall not be treated as a deposit.

3. The provisions of clauses (a) to (e) of Section 73 of the Act shall not apply to a start-up company for five years from the date of its incorporation.

4. The upper limit on the acceptance of deposits has been enhanced to 35% of net worth instead of earlier 25%;

5. Start-ups are allowed to issue Employee Stock Options to promoters working as employees;

6. The limits with regard to sweat equity that can be issued by a start-up company from 25% of paid up capital to 50% of paid up capital;

7. The annual return of a start-up company may be signed by the company secretary, or where there is no company secretary, by the director of the company.

8. For start-ups, convening at least one meeting of the board of directors in each half of a calendar year with the gap between the two meetings of not less than Ninety (90) days is sufficient to meet the requirement of Section 173 (5) of the Act.

FINANCING OPTIONS AVAILABLE FOR STARTUP COMPANIES

Finance is the life blood of any business. In case the venture is self-funded there can be no better option than that. However, a Startup is mostly the result of a novel idea that is the brainchild of its founder(s) and more often than not, funds are always a challenge.

Following are the different financing options

Seed Capital

Startup business needs the nurturing of finance to explore and grow. The funding done at the nascent stage is called seed funding and the capital is known as a seed capital.

Technically, seed capital is the initial capital used at the time of starting the business. This capital can come from the founders, families or friends. It is required for the market research, product development, and other initial stage operations.

Seed funding permits exploration of the business idea and converting it into a viable product or service that further attracts venture capitalists. A business founder must be clear on how to utilise seed capital in the most optimum manner to ensure smooth transition to the advanced stage of the business.

Seed funding is a risky investment option, as most funding agencies would like to adopt a wait and watch

1. **Equity Financing** Startups are usually equity financed/funded by way of a venture capital/ private equity investors and/or angel investors.

(i) Venture Capitalist/Private Equity

Venture capital ("VC") / Private Equity ("PE") is often the first large investment a startup can expect to receive. Convertible instruments are usually the preferred option and most commonly used securities for VC/PE investment which includes compulsory convertible preference shares and compulsory convertible debentures. The investor and startup will normally enter into a non-binding offer based on the preliminary valuation of the startup usually followed with a financial, legal and technical due diligence on the startup as required by the investors. Due-diligence will help the investors to finalize the representation and warranties and also to identify conditions precedent to the completion of investments and conditions subsequent in the aforesaid transaction documents.

Upon completion of due-diligence to the satisfaction of investor, such investments involve execution of essentially following transaction documents between the investors and startups:

Funding Procedure

(a) A Term Sheet / Letter of Intent /Memorandum of understanding is entered into, setting out the following: ▪ basic commercial understanding between the VC and the startup; and ▪ legal terms for the agreements to follow the due-diligence;

(b) The contracting parties will enter into a Share Subscription Agreement/ Debenture Subscription Agreement. It usually captures the following:

▪ the issuance of shares in the share capital or debentures at subscription amount determined based on the valuation of the startup;

▪ condition precedents to completion of transaction or conditions subsequent to be completed within the agreed time frame after the completion date;

▪ sets of representation and warranties and indemnification resulting from due-diligence exercise or otherwise, etc.

(c) Thereafter, the contracting parties may enter into a Shareholders' Agreement providing for the following:

▪ Nomination/representation rights on the board of investee;

▪ Information and reporting right and disclosure obligation of investee to the investors;

▪ Redemption rights on debenture or preference shares;

▪ Pre-emption rights, Right of First Refusal or Right of First Offer, Tag Along Right, Drag Along Rights, Lock-in-period for the investor or promoter's holding, put and call options, affirmative vote rights on certain reserved matters, anti-dilution provisions;

▪ Exit options to investors after the lock-in-period; etc

(d) Issuance of Securities through Private Placement process;

(e) Filing of necessary eForms with ROC for completing the process of issuance and allotment of securities.

(f) Amendment of AOA as per Shareholders' Agreement;

(g) Completion of Condition Subsequents;

2. Angel Investors

Angel investors are usually individuals or a group of industry professionals who are willing to fund the venture in return for an equity stake. Under the SEBI (Alternative Investment Funds) Regulations, 2012 which was subsequently amended in 2013, SEBI has made the following restrictions applicable to angel funds investing in an Indian company:

a. An investee company has to be within 3 years of its incorporation, not listed on the floor of a stock exchange, and should have a turnover of less than INR 250 million and not be promoted by or related to an industrial group (with group turnover exceeding INR 3 billion).

b. The deal size is required to be between INR 5 million and INR 50 million. Separately, it is required that an investment shall be held for a period of at least 3 years.

3. Bridge Round

4. Series Funding

After Seed Funding Round or Angel Funding Round and Bridge Funding Round, Series Funding Round will start like Series A to Z. Series preferred stock is the first round of stock offered during the seed or early stage round by a portfolio company to the venture capital investor. Series preferred stock is often convertible into common stock in certain cases such as an Initial public offering (IPO) or the sale of the company.

Series rounds are traditionally a critical stage in the funding of new companies. A typical series A round is in the range of $2 million to $10 million, purchasing 10% to 30% of the company. The capital raised during a series round is usually intended to capitalize the company for 6 months to 2 years as it develops its products, performs initial marketing and branding, hires its initial employees, and otherwise undertakes early stage business operations:

Sources of capital

Because there are no public exchanges listing their securities, private companies meet venture capital firms and other private equity investors in several ways, including warm referrals from the investors' trusted sources and other business contacts; investor conferences and demo days where companies pitch directly to investor groups. As equity crowd funding becomes more established, startups are increasingly raising part of their Series round online using platforms such as Onevest or Seed Invest in the USA and Seedrs in the UK, VC Circle, Private Circle, Lets Vanture and Tracxn Labs, etc. in India. These blended rounds include a mix of angel investors, strategic investors and customers alongside the offline venture capital investors

Structure

Smaller investment amounts are usually not worth the legal and financial expense, the burden on a company of adjusting its capital structure to serve new investors, and the analysis and due diligence on the part of institutional investors. A company that needs money for operations but is not yet ready for venture capital will typically seek angel capital. Larger amounts are usually unwarranted given the cost of business in fields such as software, data services, telecommunications, and so on. However, there are routinely series A rounds in excess of $10 million in fields such as pharmaceuticals, semiconductors, and real estate development

Factors to be considered When Raising a 'Series A Round':

If a startup is looking to raise a Series A, it might be a good idea to get familiar with what venture funds looks for to ascertain if your company is Series A ready. Most startups, even those who gets angel funding or seed-stage funding or investments from accelerators/ incubators, are unable to get follow-on funding.

Why is Series-A funding so elusive? The first time that a startup raises capital is normally called a 'seed round'.

Other names include angel round or HNI round. Some even call it a pre-Series A round, but this term usually refers to a small interim fundraising exercise between the seed round and Series A.

1.Be Series A Ready

If you are looking to raise a Series A, it might be a good idea to get familiar with what venture funds looks for to ascertain if your company is Series A ready. Promising unit economics, revenue, proof of business model, systems ready to support efficient scaling, product/market fit, customer acquisition strategy and success, quality of team are some key factors that are taken generally taken into consideration and it is wise to evaluate where you company stands against these metrics to figure if you are ready for Series A.

2.Start Early

Fundraising in the current environment is a time-consuming process - be realistic about the timeframe. Make sure you start the process at least 7-8 months prior to when you want to raise a Series A financing. The deal process has two parts, pre-term sheet and post-term sheet. Underestimating the time required inevitably leads to desperation and will often need to alter your funding strategy to include diverting attention to raise a bridge round to sustain the business.

3.LeverageYour Network

Seed funding is more plentiful and easier to raise as compared to Series A. Leveraging your network and building genuine relationships before you start your Series A fundraise will make it easier for you to get potential meetings with investors. Reach out to your extended network and request them to reach out to their connections. These second degree network have powerful and favourable outcomes. Spreading word about your business through your network or through PR/marketing initiatives is always helpful.

4.Practice your "Pitch"

The key is to take as many meetings as possible. Speak to other founders who have successfully raised Series A and take their inputs for your pitch. Meet the low priority investors on your list first - they will ask you relevant question and provide you valuable feedback which you should incorporate in your pitch before meeting the top priority investors on your list. Treat the pitch a product – iterate on it until it is great.

5. Create a Fundraise Momentum

Approaching multiple venture funds at the same time is a good idea to get a competitive dynamic into the process. Try keeping your conversations with interested investors moving along at as close to the same pace as possible. This may not be easy but is if you manage to orchestrate well, you may be able to negotiate from a high bargaining power that generally leads to better valuation and deal terms. Nothing accelerates the process and you landing up a termsheet from one VC – you are likely to get few more.

6. Know the "standard market practice"

Keep yourself up to date with the commonly offered deal terms for a Series A. It is highly possible that the first version of your term sheet you receive is not exactly "founder-friendly". The strongest line of defence and the most accepted rationale for negotiating such terms is that they are not standard market practice.

7. Get the deal terms right

It is imperative that you ensure that the deal terms for your Series A are right and consistent with the trajectory of your business. The Series A terms will play as a foundation for all future rounds - many of those same terms that you have signed up for in your Series A are likely to carry through to future rounds i.e Series B or Series C – hence important to get them the right the first time itself.

8. Engage a Company Secretary

If you're raising venture capital — you need a lawyer who specializes in structuring venture capital financing. A lawyer who has done multiple such deals understands the nuances involved in structuring such rounds both from the perspective of which deal terms are important, what the "standard market practice" is and when to stay f irm and when to concede to the investor. This will aid you to close your investment documents faster and more efficiently.

9. Paperwork in place

Shorten your transaction closing time by having all paper work in place for due diligence. Ensure that your company's legal documentation and compliance is up to date and have your team put together all records relating to employees, past financing, corporate structure and establishment, client contracts, intellectual property, cap table, etc. The paperwork should be organized and ready for review by the Investor appointed legal counsel/diligence team.

10 Raise 10-15% more than budgeted for:

Within reason, if you have access to capital and the deal terms including dilution are decent, raise 10-15% more than budgeted as the business initiatives/operations don't always materialise as planned. Raise enough to allow you a fair shot to meet your milestones for the next round of financing so that you can channel all your focus on building the business and scaling it in the right direction. Raising every round of funding post Series A becomes significantly difficult and therefore is time consuming process and highly distracting. Additionally, there is a transaction cost every time you close an additional round.

B. Debt Financing

i. Loan from Banks & NBFCs

Loans from banks and NBFCs help finance the purchase of inventory and equipment, besides securing operating capital and funds for expansion. More importantly, unlike a VC or angels, which have an equity stake, banks do not seek ownership in your venture. However, there are several drawbacks of such funding option. Not only do you pay interest on loan but it also has to be done on time irrespective of how your business is faring. They require substantial collateral and a good track record, besides the fulfilment of other terms and conditions and a lot of documentation as follows:

a. Application for loan sanction by borrowers;

b. Issue of sanction letter by the Bank;

c. Agreement of Loan;

d. Security/collateral documentation, such as (i) Deed of Mortgage; (ii) Deed of Hypothecation; (iii) Deed of guarantee; (iv) Share pledge agreement; (v) Memorandum of Entry; etc.

ii. External Commercial Borrowings:

External Commercial Borrowings (ECB) in form of bank loans, buyers' credit, suppliers' credit, securitized instruments (e.g. non-convertible, optionally convertible or partially convertible preference shares, floating rate notes and fixed rate bonds) can also be availed from non-resident lenders to fund the business requirement of a company. ECB can be accessed under two routes, viz., (i) Automatic Route; and (ii) Approval Route depending upon the category of eligible borrower and recognized lender, amount of ECB availed, average maturity period and other applicable factors.

ECB raised has also certain end use restrictions such as that it cannot be used for (a) on lending or investment in capital market; (b) acquiring a company in India; (c) real estate sector etc. Under ECB also the borrower needs to create certain charge on immovable assets, movable assets, financial securities and issue of corporate and / or personal guarantees in favour of overseas lender / security trustee, to secure the ECB raised by the borrower, subject to compliance of certain conditions as prescribed under ECB guidelines framed by Reserve Bank of India. The documentation on similar lines as mentioned under bank loan section above will need to be executed.

iii. CGTMSE Loans:

Under the Credit Guarantee Trust for Micro and Small Enterprises scheme launched by Ministry of Micro, Small & Medium Enterprises (MSME), Government of India to encourage entrepreneurs, one can get loans of up to 1 crore without collateral or surety. Any new and existing micro and small enterprise can take the loan under the scheme from all scheduled commercial banks and specified Regional Rural Banks, NSIC, NEDFi, and SIDBI, which have signed an agreement with the Credit Guarantee Trust.

C. Once the startups achieve stable operations and revenue flows, it may consider an Initial Public Offering (IPO) to raise the funds or increase the magnitude of the business operations:

During the IPO, the Company raises funds by offering and issuing equity shares to the public. An IPO allows a company to tap a wide pool of stock market investors to provide it with large volumes of capital for future growth. The existing shareholding will get diluted as a proportion of the company's shares. However, existing capital investment will make the existing shareholdings more valuable in absolute terms.

Companies can also issue of American Depository Receipts ("ADRs") or Global Depository Receipts ("GDRs") to raise funds from international stock investors.

The promoter has certain obligations such as (a) meeting minimum contribution requirements; and (b) is generally subject to a 3 year lock-in once the IPO is concluded. Various parties such as investment bankers, underwriters and lawyers need to be engaged as part of the procedure of IPO.

D. Unconventional modes of financing options which are now becoming popular in India

i. **Crowd Funding**

This is recent phenomena being practiced for getting seed funding through small amounts collected from a large number of people (crowd), usually through the Internet. Now we have companies existing in India which are specializing in "Crowd Funding".

The entrepreneur can get money for his venture by showcasing his idea before a large group of people and trying to convince people of its utility and success.

The entrepreneur needs to put up on a portal his profile and presentation, which should include the business idea, its impact, and the rewards and returns for investors. It should be supported by suitable images and videos of the project.

SEBI in 2014, even rolled out a 'Consultation Paper on Crowd funding in India' proposing a framework in the form of Crowd funding to allow startups and SMEs to raise early stage capital in relatively small sums from a broad investor base. The Consultation Paper defined Crowd funding as solicitation of funds (small amount) from multiple investors through a web-based platform or social networking site for a specific project, business venture or social cause. However SEBI not issued any further regulations in this regard

ii. **Incubators**

These set-ups precede the seed funding stage and help the entrepreneur develop a business idea or make a prototype by providing resources and services in exchange for an equity stake ranging from 2-10%. Incubators offer office space, administrative support, legal compliances, management training, mentoring and access to industry experts as well as to funding through angel investors or VCs. These are usually government-supported institutes like the IIMs or IITs, technical institutes or private business incubators run by industry veterans or companies. The incubation period can be 2-3 years and admission is rigorous. Some of the top options in India include IIM-Bangalore NSRCEL, Microsoft Accelerator and IIT Kanpur, SIIC and the Sriram College of Commerce (SRCC).

MUDRA BANKS

Micro Units Development and Refinance Agency Bank (or MUDRA Bank) is a public sector financial institution in India. It provides loans at low rates to micro-finance institutions and non-banking financial institutions which then provide credit to MSMEs. It was launched by Prime Minister Narendra Modi on 8 April 2015.

It will provide its services to small entrepreneurs outside the service area of regular banks, by using last mile agents. About 5.77crore (57.6million) small business have been identified as target clients using the NSSO survey of 2013. Only 4% of these businesses get finance from regular banks. The bank will also ensure that its clients do not fall into indebtedness and will lend responsibly.

The bank will classify its clients into three categories and the maximum allowed loan sums will be based on the category:

MUDRA Products: Shishu, Kishore, and Tarun

- Shishu: Loans up to Rs 50,000, ideal for businesses in their early stages.
- Kishore: Loans ranging from Rs 50,001 to Rs5 lakh for businesses looking to grow.
- Tarun: Loans between Rs 5 lakh and Rs10 lakh for established businesses seeking further expansion.

Those eligible to borrow from MUDRA bank are:

• Small manufacturing unit

• Shopkeepers

• Fruit and vegetable vendors

• Artisans

The basic criteria of age should be 18 years old. Loan under the scheme of the Pradhan Mantri Mudra Bank Loan will be available if and only if it is for commercial and business purposes and not for personal purposes. At the most, borrower can buy vehicle from mudra loan, given that it is used for commercial purposes. Lastly, this loan is for new business and is only applicable for small business owners

Procedure for loan at MUTHRA BANK

Once the beneficiary identifies an idea and comes up with a business plan, he is supposed to select the business category under which he wishes to avail the loan (Shishu, Kishor or Tarun). The beneficiary can contact the nearest Public/ Private sector bank where he/ she can apply for business loan under PMMY. The list of institutions partnering in the MUDRA initiative is available on the MUDRA portal. An application form under this scheme will be available with each of the above listed institutions. This application form has to be submitted along with the following documents for the approval of the loan:

• Proof of Identity(Self attested Voter ID/Driving License/PAN Card/Aadhaar Card/Passport/any other Photo ID issued by Government

• Proof of Residence(Recent Telephone Bill/Electricity Bill/Property Tax Receipt (not older than 2 months)/ Voter ID Card/Aadhaar Card/Passport/Domicile Certificate/Certificate Issued by a local authority)

• Applicant's recent photograph(not older than 6 months) • Quotation of Machinery/other items to be purchases

• Name of the Supplier/Details of Machinery/Price of Machinery • Proof of Identity/Address of the Business Enterprise(relevant licenses & certificates)

• Proof of Category(SC/ST/OBC/Minority etc) Apart from the above mentioned documents, individual banks could ask for other documents as needed.

The Banks are not supposed to take any processing fee and are not supposed to ask for any collateral. The repayment period is also extended to 5 years. But it is also made clear that the applicant should not be a defaulter to any Bank or financial institution. MUDRA Bank is not a separate bank (like SBI etc).

It is a government financing scheme to provide business loan to new small businesses in India. To get business loan under PPMY the candidate has to contact the nearest Public/ Private sector bank. MUDRA will be operating as a refinancing institution through State / Regional level intermediaries. MUDRA's delivery channel is conceived to be through the route of refinance primarily to NBFCs / MFIs, besides other intermediaries including Banks, Primary Lending Institutions etc.

The rate of interest will be fixed by the institutions time to time based on guidelines from the RBI.

MUDRA Card

After the loan has been sanctioned under MUDRA Yojana, the candidate will get a MUDRA Card, a card like the credit card which the candidate can use to buy business raw material, etc. Mudra Card will have a limit of 10% of the business loan (subject to Rs. 10,000 maximum).

Start Up Business Life Cycle

Every successful startup begins with a spark of inspiration, often igniting in the unlikeliest of places—a garage, a college dorm room, or a kitchen table. From these humble beginnings, entrepreneurs embark on an exhilarating journey that transforms their vision into reality. But what does it take to navigate the complex landscape of startup growth, and how can aspiring founders better understand the stages of this journey?

In this article, we'll explore the various startup lifecycle stage models that outline the transformative phases every startup undergoes, from inception to the coveted status of a unicorn. Whether you're an entrepreneur plotting your course or an investor seeking to identify promising opportunities, understanding these stages is crucial. Join us as we dissect each phase, uncover key challenges, and highlight the pivotal moments that can make or break a startup's journey.

The startup lifecycle according to Steve Blank

Search - Finding a repeatable business model

In the search phase, the goal of a startup is to search for a repeatable and scalable business model. It requires flexibility as it takes multiple iterations and pivots to find a product market fit.

Companies have a "do what it takes" mentality to achieve success at this stage. They are rather small (less than forty people) and are most likely using funding from a seed round or Series A. Many startups fail to move onto the next stage and die here.

Build - Scaling up customers and headcount

Once a startup reaches this phase (and begins hiring more than forty people), the company must transform into one that can scale by growing their customers at a rate that allows for positive cash flow.

This phase begins with around forty employees and can last until the company has between 175-700. If the company is venture backed, this is where a Series C or D takes place.

The "do what it takes" mentality that worked so well in the previous phase becomes less effective and could be chaotic. The company needs to have things in place such as culture, training, product management, processes and procedures.

Grow - Setting up processes post-liquidity

In the final phase the company has achieved liquidity. This is the result of an IPO, the company having been bought or a merger. The company continues to grow and has repeatable processes. The Key Performance Indicators (KPIs) processes and procedures from the previous phase are now commonplace.

The startup lifecycle according to Morgan Brown

Morgan Brown defines the five phases of the startup life cycle as problem solution fit, MVP, product market fit, scale, and maturity.

Problem-Solution Fit

What problem does this product or service attempt to solve? Does the solution effectively solve it? If there is a clear answer and a yes to these questions, then founders have a hypothesis to test. This is the stage where the founder needs to do heavy market research and talk to target users, asking them questions in an attempt to find their pain points. This will provide enough information to build a viable MVP.

Minimum Viable Product

This is the stage where you build a viable MVP using the smallest amount of time and capital in order to prove demand and test customer behavior. Once it is released, it is all about finding initial users and seeing whether they remain with the product or abandon it.

Product-Market Fit

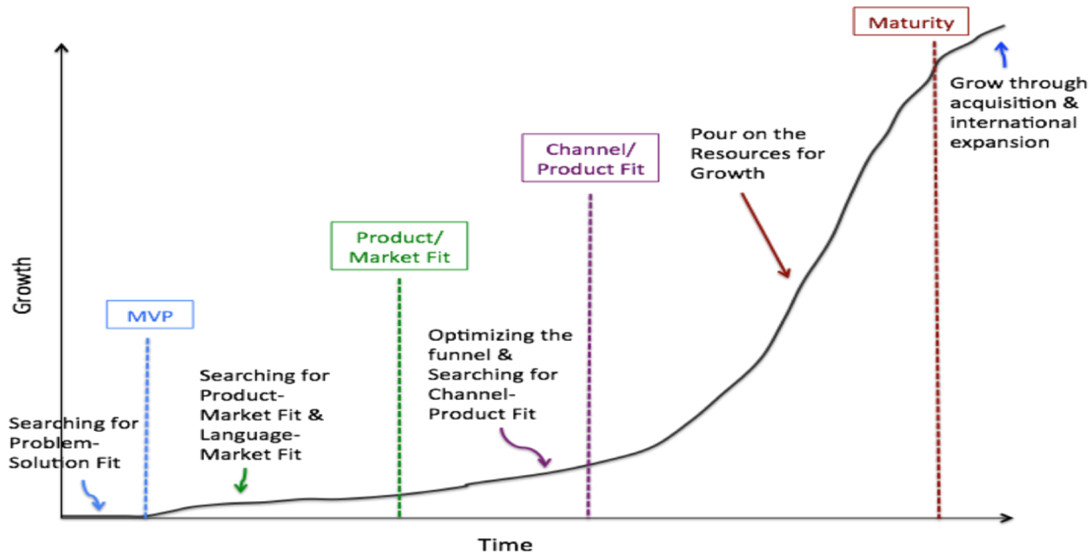
The MVP has gained traction and you are iterating from customer feedback. There may be paying customers and repeat customers. This is often a sign that there is product market fit. At this stage, founders should measure retention rates while surveying users to see how they feel about the product. The channels that are providing users should also be experimented with and explored.

Scale

This is where you double down on the channels that work. Growth experts are hired and given budgets and support. You build a growth playbook (the processes that define and grow the company) for each channel.

Maturity

As the company matures, growth slows, but it doesn't stop. Even Facebook and LinkedIn continue to expand and grow. New channels should be discovered and pockets of new possible users should be approached. At this stage, you look to expand aboard. This is also the stage where acquisition opportunities come into play.



8 Stages of a Startup

1. Ideation/Minimum viable product (MVP)

At the very beginning of the startup journey lies the ideation and development stage. Often referred to as the pre-seed stage, this is where entrepreneurs bring their creative concepts to life. It's the brainstorming phase where ideas flow freely, and dreams are crafted into a business plan.

Here's what you need to know about this critical starting point:

- Idea Generation: The idea phase process begins with identifying a pain point or a market need. Entrepreneurs brainstorm ideas that could potentially address these issues.
- Validation: Not every idea is a winner. Validation involves researching the market to determine if there's real demand for your product or service.

Prototyping: Once you have a promising concept, it's time to create a Minimum Viable Product (MVP). This is a basic version of your offering with just enough features to attract early adopters.

- Testing: The MVP is then tested in the market to gather feedback and insights. This feedback loop is crucial for refining your idea and pivoting if necessary.

2. Seed Stage

With a validated idea and an MVP in hand, you move on to the next stage, the Seed Stage.
Here, you're seeking the initial financial support to nurture your budding business.
This stage is marked by several key elements:

- Funding: Seed funding typically comes from friends, family, angel investors, or early-stage venture capitalists. It's the financial fuel that allows you to take your MVP to the nextlevel.
- Business Planning: Solidify your business plan, outlining your vision, market analysis, and growth strategy. This document becomes crucial when seeking investors.
- Team Building: As your startup gains traction, you'll need a team to help execute your vision. At most seed-stage startups, key hires are often made to fill critical roles.
- Early Growth: Seed funding is used to build upon the success of the pre-seed phase of your MVP. You're looking to expand your customer base and demonstrate traction to attract larger investments in the next stages.

3. Startup Stage

After navigating the ideation and seed stages, a startup enters what's commonly known as the "Startup Stage."

This phase is marked by several pivotal developments:

- Venture Capital Financing: In this stage, many startups secure venture capital financing, often from private equity firms specializing in early-stage investments. This injection of capital allows you to ramp up operations, hire key talent, and accelerate growth.
- Product Refinement: Building on the MVP, you refine your product or service based on user feedback and market insights. The goal is to create a more polished and valuable offering.

Go-to-Market Strategy: Your startup needs a clear plan for reaching your target audience. This includes marketing, sales, and distribution strategies designed to attract and convert customers.

- Customer Acquisition: The startup Stage is where you actively seek your first wave of potential customers. You're aiming to establish a foothold in the market and generate initial revenue.

4. Growth Stage

The Growth Stage is where startups transition from survival mode to a period of rapid expansion and scaling.

Key aspects of this growth phase can include:

- More Funding Rounds: As you gain momentum, you may seek additional rounds of funding, such as Series A or B funding, to fuel your growth. Venture capitalists are often interested in startups with proven potential.
- Expanding Customer Base: Your focus now is on attracting a larger customer base and increasing market share. You're likely to enter new markets, both domestically and internationally.
- Diversification: To sustain growth, you may diversify your product or service offerings. This can include adding new features, complementary products or targeting different customer segments.
- Operational Efficiency: As the demands on your business increase, streamlining operations becomes crucial. Efficient processes help you manage growth effectively.

5. Established Stage

Reaching the Established Stage signifies that your startup has matured and gained significant market presence.

characterizes this phase:

- **Loyal Customer Base**: You've built a loyal customer base that values your product or service. Customer retention and satisfaction are paramount.
- **Solid Financial Resources:** Your startup has a stable financial footing, with healthy revenue streams and profitability. You may consider going public through an IPO to raise more capital.
- **Market Leadership**: You've emerged as a leader in your industry or niche. Your business model is well-established and recognized in the business world.
- **Company Culture:** Maintaining a strong company culture becomes essential. You want to preserve the entrepreneurial spirit that got you here while also fostering a positive workplace environment.

6. Expansion Stage

Upon surpassing the initial growth phases, your startup will transition into the Expansion Stage. In this phase, strategic initiatives aimed at both sales cycles broadening market presence and reach take center stage:

- **Market Diversification**: Expansion frequently involves venturing into new markets, either geographically or within your existing market, thereby possibly necessitating international expansion or targeting underserved niches.
- **Diversified Product or Service Offerings**: As customer demands evolve, diversification becomes increasingly pertinent. This entails the introduction of new products or services catering to a wider spectrum of needs.
- **Operational Scaling:** To accommodate heightened market demand, a strategic scaling of operations is imperative. This might encompass the establishment of new facilities, offices, or production sites.
- **Additional Funding Endeavors:** Expansion inherently demands financial resources. As such, your startup might embark on further rounds of fundraising or enter into strategic partnerships to bolster capital reserves.

7. Maturity Stage

The Maturity Stage signifies a period of equilibrium and consolidation following the rapid growth phases.

Key attributes characterizing this phase include:

- **Market Ascendancy:** Your startup has asserted itself as a dominant force within its market or niche. This translates into a substantial share of the customer base and a notable degree of stability.
- **Financial Resilience:** Financial records reflect stability, with consistent revenue generation and profitability. The emphasis shifts towards maintaining profitability and adept management of cash flow.
- **Operational Efficiency and Streamlining:** Well-defined processes are meticulously streamlined for efficiency. Continuous efforts are undertaken to minimize costs and enhance operational efficacy.
- **Product or Service Evolution:** The innovation spirit persists, albeit with a focus on refining and evolving existing offerings to remain competitive and responsive to evolving market dynamics.

8. Merger & Acquisition Stage

In certain scenarios, startups opt for the Merger & Acquisition (M&A) Stage as a strategic exit route.

This phase encompasses discerning decisions concerning the sale or merger of your startup businesses or enterprise:

- **Negotiation Endeavors**: M&A pursuits necessitate intricate negotiations with potential buyers or merger counterparts. Such endeavors frequently involve engagement with legal and financial experts to navigate complexities.

- **Strategic Exit Planning:** Founders may elect to part ways with the startup realm, potentially capitalizing on their equity stake and transitioning towards fresh entrepreneurial ventures.

- **Integration Protocols:** Should the startup be subject to acquisition, the subsequent phase involves the assimilation of your enterprise into the acquiring entity. This encompasses the merging of operations, cultures, and resource pools.
- Legacy Crafting: For many founders, the Merger & Acquisition Stage represents the culmination of a substantial journey marked by unwavering determination, innovation, and toil. It leaves behind a legacy that echoes the enduring spirit of entrepreneurship.

Suggestions for a Successful Startup

Launching a startup is an exhilarating venture filled with potential and promise but also fraught with challenges and uncertainties. To help navigate this journey successfully, here are some invaluable tips for aspiring entrepreneurs and early-stage startup founders.

1. Start with a Strong Ideation Process

The foundation of a successful startup lies in a compelling idea. To ensure your idea is on the right track:

- Identify a genuine problem or pain point in the market.
- Conduct thorough market research to validate the demand for your solution.
- Ensure your idea offers a unique and valuable solution that stands out in the crowded startup world.

2. Develop a Robust Business Plan

A well-crafted business plan serves as your roadmap to success. Key elements include:

- Defining your startup's mission, goals, and long-term vision. Understanding your target market, competition, and potential challenges.
- Creating realistic financial forecasts, including expenses, revenue, and funding requirements.
  Outlining your go-to-market strategy and operational plan.

3. Assemble the Right Team

Building the right team is paramount to your startup's success. Consider:

- Ensuring your team possesses a diverse technical, marketing, and operational skill set.
- Aligning everyone with your startup company's vision and values. Fostering a positive and collaborative company culture from the outset.

4. Secure Early Financial Support

In the early stages, securing adequate funding is crucial. Explore options like:

- Bootstrapping if you have the financial means. Seeking angel investors interested in your industry.
- Approaching venture capital firms keen on investing in promising startups.
- Utilizing crowdfunding platforms to raise capital from a broad audience.

4. Focus on Product-Market Fit

Ensuring your product or service resonates with your target audience is pivotal.
Strategies include:

- Continually gathering and incorporating customer feedback to refine your offering. Being open to making necessary changes to align with market demands.
- Planning for scalability as your customer base grows

5. Build a Strong Online Presence
In today's digital age, a robust online presence is non-negotiable. Steps to take include:

- Creating a professional website that effectively communicates your brand and offerings. Leveraging social media platforms to engage with your audience and build a community.
- Producing valuable content that showcases your expertise and provides value to your audience.

6. Invest in Marketing and Sales
To attract customers and drive sustainable growth further, invest in effective marketing and sales strategies. This involves:

- Focus your marketing efforts on reaching your specific customer segment. Developing a well-defined sales process to convert leads into paying customers. Attending industry events, conferences, and meetups to build valuable connections.

7. Prioritize Financial Management
Sound financial management is vital for long-term sustainability. Consider:

- Creating a detailed budget that includes all expenses and income projections.
- Monitoring your cash flow regularly to ensure you have the resources to operatesmoothly.
- Keeping accurate financial records and seeking professional advice when needed.

8. Embrace Agility and Adaptability
The business landscape is dynamic, and startups must be agile. Strategies include:

- Do Not hesitate to pivot your business model or strategy if market conditions change. Viewing failures as opportunities to learn and improve.

9. Cultivate a Strong Startup Company Culture

Your startup's culture can significantly impact its success. Key considerations include:

- Leading by example as a founder to set the tone for the organization. Fostering a workplace where employees feel valued, engaged, and motivated.

10. Measure and Analyze Key Metrics
Data-driven decision-making is essential. Incorporate:

- Identification and tracking of relevant KPIs to gauge your startup's performance. Experimentation with different strategies and measurement of their impact.

11. Seek Mentorship and Guidance
Don't hesitate to seek advice from experienced entrepreneurs or mentors. This includes:

- Finding a mentor who can provide guidance and share their expertise. Building relationships with others in your industry for support and insights.

12. Protect Your Intellectual Property
If applicable, safeguard your intellectual property through:

- Securing patents, trademarks, or copyrights to protect your unique ideas and creations.

13. Plan for the Long Term
Look beyond short-term gains and plan for long-term sustainability. This may include:

- Considering your long-term goals, whether it's an IPO, acquisition, or continued growth.

14. Stay Resilient and Persistent

Building a successful startup is a challenging endeavor that requires resilience. Remember to:

- Expect obstacles and setbacks, but persevere through them. Recognize and celebrate even small victories along the way.

REGISTRATION STEPS (Based on Company)

What form should your Startup Venture have?

I. Formation of a Company in India

The law of companies in India is governed by the Indian Companies Act, 2013 which is a comprehensive legislation and provides for provisions relating to all phases of a company's life, i.e. incorporation, management, mergers, winding up, etc. A Registrar of Companies ('ROC') is appointed under the Act for designated regions, who is the nodal authority for affairs related to companies in that particular region.

II. Types of Companies in India

Any person can choose to incorporate either a company with unlimited liability or one with liability limited either by shares or guarantee. An incorporated company may take one of the following three forms:

II.1. Private Company

With restrictions on transfer of shares, and limited number of members, a private limited company enjoys greater flexibility, less legal formalities, and the small shareholders body facilitates prompt decisions. A private company must have a minimum of two directors. A private company may be converted into a public company for raising capital from the public, if need arises, by completing certain legal formalities as specified in the Companies Act.

II.2. Public Company

Public companies are subject to stricter legal formalities. However, the free transferability of the shares of a public company and unlimited membership provides a larger base for raising of capital. Shares of a listed public company can be traded on stock exchange, which may open it to the scrutiny and watch of Securities and Exchange Board of India. A public company must have a minimum of seven members and three directors. Certain classes of public limited companies must have at least one third of the total number of directors as independent directors out of which one director has to be a woman director.

Minimum authorized and paid up share capital requirement of a private and public company: The criteria of having minimum paid up share capital for both private public company, as stated in the erstwhile Companies Act, 1956, has been omitted in the revised Companies Act. This is a significant advantage to start-ups with respect to the requirement of maintaining minimum share capital under the Companies Act since inception.

II.3. One Person Company

This concept has been brought by the new Companies Act and states that One Person Company is in the nature of a private company which has only one person as its member/director

At the time of incorporation, the memorandum of association must name a nominee for the sole member of an OPC. The minimum number of directors for an OPC is also one. OPC provides the option of limited personal liability of proprietors (as opposed to unlimited liability in sole proprietorship).

Businesses which currently run under the proprietorship model could get converted into OPC's without any difficulty. The questions of consensus or majority opinions do not arise in case of OPCs, and is suitable for small entrepreneurs with low risk taking capacity.

III. **Charter documents of a Company**

III.1 Memorandum of Association The MoA sets out the objects for which the company is proposed to be incorporated in the manner provided hereunder

a. The first and foremost clause in MoA shall be the name of the proposed company suffixed with the words limited or private limited, as the case may be;

b. The state where the registered office of the company shall be situated.

c. The third clause contains the main objects for which the company is going to be formed/incorporated. The MoA binds the area of operation of the company in respect to the objects mentioned therein and any business contrary to the main objects mentioned in their MoA.

The MoA and AoA of a company can be modified post incorporation in accordance with the applicable provisions of the Companies Act.

III.2. Articles of Association

The articles of a company contains regulations for the management of the company. This document is confined to the applicability of the provisions of the companies act, on private or public limited company, as the case may be.

IV. Legal formalities for incorporation of a company:

IV.1. Pre-incorporation formalities:

The below mentioned compliances are required to be carried out with regard to setting up of company in India:-

a. Digital Signature Certificates ('DSC') for the proposed directors of the company by preparing and filing of Incorporation documents as required under the provisions of the Companies Act, 2013.

b. Any person (not having DIN) proposed to become a first director in a new company shall have to make an application through eForm SPICe. The applicant is required to attach the proof of Identity and address along with the application. DIN would be allocated to User only after approval of the form.

c. The next step is filing of online Incorporating a company through Simplified Proforma for Incorporating Company electronically (SPICe -INC-32), with eMoA (INC-33), eAOA (INC-34), is the default option and most companies are required to be incorporated through SPICe only.'

d. However, Application for allotment of DINs to the proposed first Directors in respect of new companies shall be made in SPICe form only and any person intending to become a director in an existing company shall have to make an application in eForm DIR-3 for allotment of DIN.

e. The final step of the incorporation process and obtaining a certificate of incorporation of the company.

IV.2. Post incorporation formalities:

Once the certificate of incorporation has been issued by ROC, the company becomes a separate legal entity in the eyes of laws in India, and requires certain basic registrations to initiate the business which includes filing of application for obtaining a permanent account number, tax deduction account number in the name of the company and any other business specific registrations from the relevant government authorities i.e. Import– Export Code Number in case of company carrying out the business of import and/or export.

Further, every company shall be required to carry out certain compliances, as required under the provisions of the Companies Act, for their day to day activities which includes holding of first board meeting immediately after incorporation, convening the annual general meeting every year, maintaining all the secretarial records at the registered office of the company, maintaining of statutory registers, minutes books etc. of company in compliance with the Companies Act, 2013.

Following are the important points for a Start-up:

1. Choose the right legal structure for your startup:

Choosing an appropriate legal structure is one of the most crucial decisions for any startup. The decision should be taken based on individual circumstances and a host of factors such as nature/sector of business operation, business trajectory, regulatory and tax considerations, costs of formation and ongoing administration, external capital requirement and type of funding sought, of legal liability protection required, number of stakeholders, balance required between ownership and management, proposed mechanism for profit sharing or distribution amongst stakeholders, et al. Preferred entity structures for startups in India are limited liability partnership and private limited company.

2. Registrations and business licenses:

Post incorporation of a business entity in India, some necessary registrations are required and mandated by law. Any user who intends to incorporate company through SPICe eform can now also apply for GSTIN /Establishment code as issued by EPFO / Employer Code as issued by ESIC through this eform (INC-35). User is required to file application (SPICe) for incorporation of a company accompanying linked e-form AGILE "Application for Goods and services tax Identification number, employees state Insurance corporation registration pLus Employees provident fund organisation registration" along with eform SPICe MOA (INC-33) and eForm SPICe AOA (INC-34) to obtain GSTIN / Establishment Code / Employer Code.

This process will be applicable only for Companies incorporated by MCA through SPICe application. Other categories of applicants (Tax Deductor, Tax Collector, Casual Taxable person, ISD, etc.) for GSTIN shall follow the existing process of registration through Common

Portal for GST registration Similarly, other type of establishment such as Factory shall follow the existing process of registration through Common Portal for EPFO & ESIC registration).

Business licenses are permits issued by government authority that allow startups to start/continue to operate a particular business within its territorial jurisdiction lawfully. The nature of business activity determines most license requirements.

Other determining factors may include the number of employees, location of business and the form of business ownership. Some examples are Food safety license, Health/Trade license, Shops & Establishment License etc.

3. Intellectual Property Protection:

Intellectual Property Rights are a very important asset class for a startup. Developing and protecting intellectual property with proper registration can help startups gain competitive advantage. It is essential to obtain trademark registration for the business name/trade name under the Trademarks Act. Registration of a company or business in India does not by itself give protection against others who might commence using identical or similar marks.

A trademark search should be conducted before deciding on these business name/ trade names to prevent any issues in future including potential infringement. All Intellectual Property (including trademark, copyright, design, trade secrets, inventions, patents, etc.) should be registered in the name of the entity and not in the name of the promoters/founders of the startup.

4. Founder Equity – Split and Vesting:

Founder equity should be split amongst founders based on the nature of role played by each founder along with their time, effort and capital contribution to the startup. Splitting founder equity equally by default without a through discussion on expectations and contribution generally leads to tension and unhappiness amongst founding teams as the startup matures.

Founder shares should be always subject to vesting schedule – typically over a period of three to four years. When vesting is imposed on a founder equity, the unvested shares held by the founder become subject to a contractual right to repurchase/transfer often at a nominal value, if one of the founders is terminated or voluntarily leaves the startup. This is very important to ensure future viability of the business.

5. Founder agreements:

The founders agreement is the most valuable tool to establish the relationship between the founders of a startup. The agreement should represent a clear understanding between the founders on all key issues related to the startup. Founder agreements should clearly mention the roles and responsibilities of the founders and have clauses detailing the decision making and operating structure of the startup, founder equity split with vesting (explained above), assignment of all intellectual property in favour of the startup, termination of a promoter and exit process etc.

6. Employment contracts:

Startups must ensure to enter into clear employment contracts detailing terms and conditions of employment with their employees. While employment contracts are certainly valuable to the employees as it details terms regarding description of job profile, compensation and other associated benefits, a number of clauses may be inserted to safeguard and protect the interest of the startup – such as stopping employees from setting up competing entities (non- compete clause), poaching other employees/clients/customer (non-solicitation clause), preventing employees from claiming any intellectual property right on the work done/developed during the course of employment (assignment of intellectual property rights).

7. Employee Stock Option Pool (ESOP):

ESOP's are incentives given to employees/directors of a company to attract talent and retain employees by rewarding them. ESOPs create a sense of ownership amongst employees. It is important to note that ESOPs are not shares. They are structured in a way that they are option to buy shares at a discounted price and can be exercised only after a certain vesting period which is decided by the company granting the ESOPs.

8. Third Party Agreements:

Prior to entering into a third-party agreement and while negotiating the terms, it is advisable to execute a non- disclosure agreement. If creation/development of intellectual property is a component of such a third-party agreement, it must clearly state that all rights to the intellectual property rights shall vest and be owned by the startup and the third-party shall not stake any claim on the same and will do all acts to ensure the protection of the intellectual property. Clauses related to breach, termination and dispute resolution should be well negotiated and captured in all third-party agreements.

9. Investment structuring:

One of the most challenging and time consuming aspects of operating a startup is to raise capital for working capital requirement and growth. In India, Investors (HNIs/Angels/Funds) invest in early and growth stage companies in different structures and on varied terms. It is imperative for startups to seek proper legal advice while negotiating the deal terms for investment and the rights of the investors.

Typically, as a process an intention document detailing the structure of the transaction called the term sheet is executed followed by due diligence of the startup and execution of investment related definitive agreements.

10. Compliance management:

Compliance and its importance is often overlooked by many startups. There are multiple laws applicable to specific entity structures under which separate event based and annual compliance is mandated. It is extremely critical for the sustainable growth of any business that the startup is in compliance with legal, secretarial, accounting, taxation, employee related and other associated compliances. The consequences of non- compliance can be levy of punitive fines on the startup.