

Angel tax exemption

Startup Series #3

The angel tax, which was introduced in 2012, became a roadblock for many investors who wanted to fund early-stage start ups. To address such concerns, the DPIIT issued a notification stating that angel tax shall not apply to start ups if it fulfils the conditions specified.

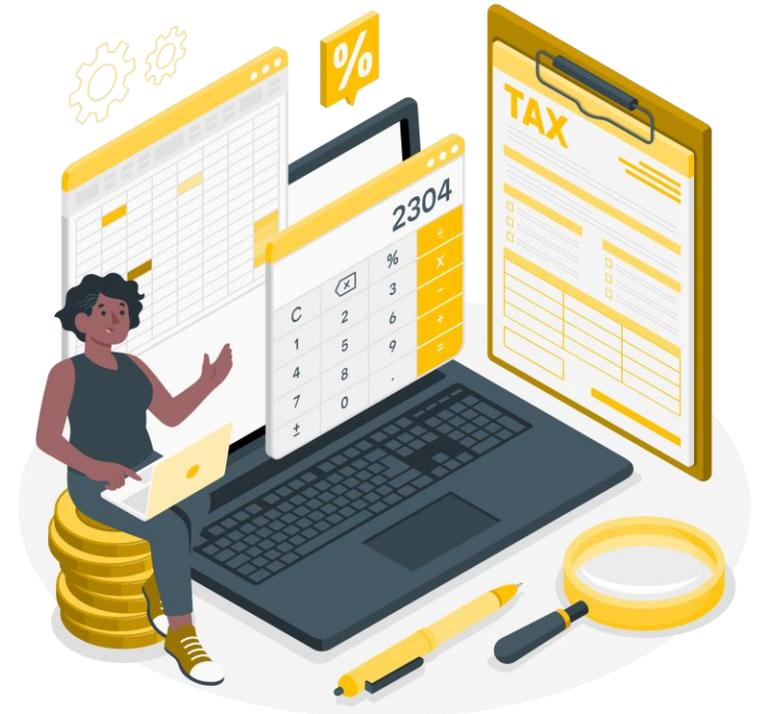
*In continuation to our '**Startup Series**', let us look at the angel tax exemption offered to startups and the conditions to be satisfied in **#3** of the series.*

Angel Tax Exemption

Where a company in which **public are not substantially interested** is issuing shares at a premium, any amount that is received by the company from **Indian residents** exceeding the fair market value is liable to be taxed in the hands of the company (**angel tax**) under income from other sources. This is because the **excess amount is treated as an income** and hence, the receiver (company) should pay taxes.



Face Value	Issue Price	Fair Market Value	Income subject to angel tax
100	200	150	50
100	150	150	0



The notification issued by DPIIT on 19th February 2019 provides that the above angel tax provisions shall not apply to start-up companies which fulfil the conditions specified (refer ensuing slides).

Conditions to be satisfied by Startup (1/2)



Start-up should be **recognised by DPIIT**.



Aggregate amount of **paid-up share capital and share premium** of the start-up after proposed share issue **does not exceed Rs. 25 crores**.



For the purpose of computing **the above limit of Rs. 25 crores**, the shares issued to the following investors shall **not be considered**:

- Non-resident, or
- Venture capital company or a venture capital fund.
- Specified listed companies



Conditions to be satisfied by Startup (2/2)

Start-up company has not invested and **should not invest** in any of the following assets for a **period of 7 years** from end of latest FY in which shares are **issued at premium**:

Any other asset, whether in the nature of **capital asset** or otherwise, which includes archaeological collections, drawings, paintings, sculptures, any work of art or bullion.

Shares and securities

Capital contribution made to any other entity,

A motor vehicle, aircraft, yacht or any other **mode of transport**, the actual cost of which exceeds Rs. 10 lakhs, **other than** that held for the purpose of plying, hiring, leasing or as stock-in-trade,



Building or land appurtenant thereto (residential house), other than that used for renting or held by it as stock in trade,

Jewellery other than that held as stock-in-trade,

Land or building, or both (not being a residential house), other than for renting or held by it as stock in trade,

Loans and advances, other than those extended in the course of business where the lending of money is a substantial part of its business,

Approval process



Company which satisfies the aforesaid conditions can make a **declaration in Form 2** to DIPP stating that it has fulfilled the same.

On receipt of such declaration, the DPIIT shall forward the same to the CBDT. **No approval from CBDT is specifically required** to claim the benefit.

If a company which has furnished such declaration invests in any of the aforesaid assets **before the end of 7 years**, the exemption provided shall be revoked with retrospective effect.

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[Startup recognition](#)



Capital gains exemption on investment in startups



[Tax holiday benefit](#)



Exchange control provisions



Angel Tax Exemption



Labor law relaxations



Taxability of ESOPs



Startup India Seed Fund



Carry forward of losses in case of change in shareholding



Other regulatory provisions / benefits

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