

Reform Update-Starting a Business-India

DELHI:

1. Reform: REDUCTION OF APPLICABLE PROCEDURES FROM 12 in Delhi to 5: The applicable number of procedures have been reduced from 12 to 5 with the introduction of the "Simplified Proforma for Incorporating a Company electronically" (SPICe aka INC 32). SPICe is the only default application for incorporation of companies. The "mandatory" SPICe form combines 5 procedures across agencies (MCA and CBDT) to 1 procedure. Listed below are the erstwhile procedures which have now been subsumed as 1 procedure:
 - a) Incorporation of company
 - b) Obtain director identification number (DIN)
 - c) Reservation of company name
 - d) Application for Permanent Account Number (PAN)
 - e) Application for Tax deduction and collection Account Number (TAN)

Impact: The number of procedures required to start a business has been reduced from 12 to 5 in Delhi.

Effective Date: 29TH December 2016

URL: <http://www.egazette.nic.in/WriteReadData/2016/172018.pdf>

2. Reform: REDUCED APPLICATION FEE FOR INCORPORATION: Application Fee for incorporation of company has been reduced from INR 2,000/- to INR 500/-
Impact: The cost of doing business has reduced on account of the reduction in application fee which is now 1/4th of the previous amount.

Effective Date: 29TH December 2016

URL: <http://www.egazette.nic.in/WriteReadData/2016/172018.pdf>

3. Reform: ONLINE AND REALTIME APPLICATION PROCESS FOR ESIC & EPFO WITHOUT THE REQUIREMENT OF INSPECTION OR PHYSICAL TOUCH POINTS: Procedures associated with Employee State Insurance Corporation (ESIC) and Employee Provident Fund Organization (EPFO) have been made electronic and are now provided in real time. Inspection procedures associated with both procedures have been dispensed with.

Impact: Erstwhile physical application process has been done away enabling greater transparency and savings of time with "Real Time" processing of applications. Thereby reducing the time significantly.

Effective Date: EPFO-1st December, 2015

ESIC- July, 2016

URL:

http://esic.nic.in/backend/images/news_events_file/10aa661cb1e09fbc436614a9bed0e9a2.pdf

<http://www.esic.in/ESICInsurance1/ESICInsurancePortal/Portal Login.aspx>

<https://unifiedportal.epfindia.gov.in/OLRE.php>

4. Reform: ONLINE AND REAL TIME REGISTRATION FOR DELHI VAT: Value Added Tax (VAT)
Registration is now processed within 24 hours with no requirement of inspection.

Impact: Delhi VAT registration is being given in 24 hours to all applicants and hence the timelines would be 0.5 days.

Effective Date: Through Mobile App: June, 2016

Through online portal: January, 2017.

URL: <http://dvatonline.gov.in/Docs/Circulars/1691930.pdf>

<http://dvatonline.gov.in/Docs/Circulars/1604864.pdf>

<https://updatetia.com/2016/06/01/dvat-registration-in-just-24-hours-dvat-msewa-mobile-app/>

<http://autho.dvat.gov.in/frmDvatRegistration.aspx>

5. Reform: ESTABLISHMENT OF CENTRAL REGISTRATION CENTRE (CRC): MCA rolled out the first phase of CRC in January, 2016. THE CRC is process re-engineering initiative which utilizes a combination of automation, rationalization of rules, deployment of certified professionals and centralized processing to reduce time taken to incorporate a new company. Resultantly, the time taken to incorporate a company has been brought down to an average of 0.3 days in December, 2016.

Impact: The CRC has led to re-engineered processes and automation bringing the average time to incorporate a company to 0.3 days (as of December, 2016) and as per the methodology 5 procedures will now be clubbed into one procedure and timelines would be 0.5 days as entire process is completely online.

Effective Date: January, 2016

URL: <http://www.mca.gov.in/MinistryV2/central+registration+centre+content+page.html>

6. The following CORRECTIONS are to be made:
 - a) DIGITAL SIGNATURE CERTIFICATE (DSC): DSC's are counted as a procedure in the past year's ranking procedure, however the requirement of DSC is not specific to Incorporation of a Company and is in fact a necessary aspect of validating electronic transactions world-wide. In the event an applicant has an existing DSC, he is free to utilize the same for Incorporation of a Company and will not be required to apply for a DSC. Further, it takes only 4 hours to get the Digital Certificate.
 - b) COMMON / CORPORATE SEAL: The requirement of Common / Corporate seal was dispensed with in the Companies (Amendment) Act, 2015, yet it has been considered in last years' Doing Business Report.
 - c) BANK ACCOUNT: Bank accounts are not required "mandatorily" for any forms during the procedures associated with starting a business and hence are incorrectly counted as a "procedure".

Only ESIC registration used to require bank account details previously, however, the practice was discontinued in April, 2016. The provision of bank account information has been made optional at the time of registration since then.

Impact: The corrections should reflect the actual statutory procedures applicable in India for starting a business.

URL: 6(b)- http://www.mca.gov.in/Ministry/pdf/AmendmentAct_2015.pdf

6(c)-

http://esic.nic.in/backend/images/news_events_file/10aa661cb1e09fbc436614a9bed0e9a2.pdf

http://www.esic.in/ESICInsurance1/ESICInsurancePortal/Employer_Employee%20Registration%20through%20ESIC%20portal.pdf

7. The actual procedures and timelines for starting a Business is as follows:

- I. Incorporate a company with Name Reservation, DIN, PAN and TAN using SPICe Form online-0.5 day

The cost of the procedure is as follows:

Filing of Memorandum of Association: INR 2,000

Filing fee for Articles of Association: INR 400

Filing fee for integrated INC-32 (SPICe): INR 500

Stamp Duty: INR 10

Stamp Duty for Articles of Association: INR 200

Stamp Duty for Memorandum of Association: INR 750

(The process for drafting Memorandum and Articles of Association has been simplified with the introduction of eMoA and eAoA.)

- II. Register with ESIC-0.5 Day (Simultaneous Process)- No charge
- III. Register with EPFO-0.5 Day (Simultaneous Process)-No charge
- IV. Register with VAT online and real time-0.5 Day-The cost is INR 500
- V. Register with Shops and Establishment Act (online and real time)-0.5 Day (Simultaneous Process)-No cost

The procedures which are completely eliminated are:

- a) Procedure-1: Obtain Digital Signature: The requirement of obtaining digital signature is not specific to registration of companies and a person may have digital signature readily available for a variety of online transactions. hence, to count it as an additional procedure may reflect an incorrect stance. Evidently, this would not count as a procedure in case an individual is in possession of a digital signature. Further, it takes only four hours to get the digital signature in India from Certifying Authorities. The cost of obtaining a digital signature is INR 899.
- b) Procedure-5 Make a Company stamp: The companies Act has already amended and removed the requirement of company seal in 2015. ESIC and PAN do not any longer require corporate seals. India's central bank and monetary authority, the Reserve Bank of India (RBI) has issued an advisory to the Indian Banks Association (IBA) to educate banks that corporate / common seal is not mandated by law for opening of a bank

account, unless the company's Memorandum and Articles of Association specify the same. Accordingly, banks do not insist on obtaining company seal at the time of opening accounts of the company

- c) Procedure-7 Open a Bank Account: Opening a bank account is not a "mandatory" requirement at the time of filing of an application for incorporation. Accordingly, to treat opening of a bank account as a separate procedure, despite the fact that it is not required for incorporation would reflect an incorrect position both de jure and de facto. The absence of a bank account would not stop the process of starting a business / incorporation of a company. Any company would require a bank account to make monetary transactions whether the transaction be with the government, or otherwise, in any country of the world.

Impact: After undertaking business reforms the final procedures stands at 5 and timeline is 1 day to start a business in India.

Effective Date: December, 2016

URL:http://dipp.nic.in/English/Investor/ease_DoingBusiness/sabNewsletter_19May2017.pdf

<https://www.emudhradigital.com/allproducts.php>

8. The total cost of incorporating a company stands at INR 3860, which is reduced from DBR, 2017 figure of INR 5293. The total cost for starting a business in India
Company incorporation-INR 3860
Digital Signature- INR 899
DIN for 2 directors-INR 1000
PAN-INR 107
TAN-INR 63
VAT-500
The total is INR 6424 (USD 94) which is around 6% of income per capita (USD 1590).

Impact: The cost of starting a business reduced to 5% of income per capita.

Effective Date: December, 2016

URL: <http://www.mca.gov.in/mcafoportal/enquireFeePreLogin.do>

MUMBAI:

1. REDUCTION OF APPLICABLE PROCEDURES FROM 14 to 5: The applicable number of procedures have been reduced from 14 to 5 with the introduction of the "Simplified Proforma for Incorporating a Company electronically" (SPICe aka INC 32). SPICe is the only default application for incorporation of companies. The "mandatory" SPICe form combines 5 procedures across agencies (MCA and CBDT) to 1 procedure. Listed below are the erstwhile procedures which have now been subsumed as 1 procedure:
 - a) Incorporation of company

- b) Obtain director identification number (DIN)
- c) Reservation of company name
- d) Application for Permanent Account Number (PAN)
- e) Application for Tax deduction and collection Account Number (TAN)

Impact: The number of procedures required to start a business has been reduced from 14 to 5 in Mumbai.

Effective Date: 29th December, 2016

URL: <http://www.egazette.nic.in/WriteReadData/2016/172018.pdf>

2. Reform: REDUCED APPLICATION FEE FOR INCORPORATION: Application Fee for incorporation of company has been reduced from INR 2,000/- to INR 500/-

Impact: The cost of doing business has reduced on account of the reduction in application fee which is now 1/4th of the previous amount.

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3. Reform: ONLINE AND REALTIME APPLICATION PROCESS FOR ESIC & EPFO WITHOUT THE REQUIREMENT OF INSPECTION OR PHYSICAL TOUCH POINTS: Procedures associated with Employee State Insurance Corporation (ESIC) and Employee Provident Fund Organization (EPFO) have been made electronic and are now provided in real time. Inspection procedures associated with both procedures have been dispensed with.

Impact: Erstwhile physical application process has been done away enabling greater transparency and savings of time with "Real Time" processing of applications. Thereby reducing the time significantly.

Effective Date: EPFO-1st December, 2015

ESIC- July, 2016

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<https://unifiedportal.epfindia.gov.in/OLRE.php>

4. Reform: ONLINE AND REAL TIME REGISTRATION UNDER SHOPS & ESTABLISHMENT'S ACT IN MUMBAI: Applications are processed electronically inspection procedures have been dispensed with. There are a total of 1538 approvals were given in one day out of total 1673 application received in January, 2017.

Impact: With real time Shops and Establishment registration in Mumbai, the timelines have become 0.5 days flat.

Effective Date: March, 2017

URL:

<http://www.mcgm.gov.in/iri/go/km/docs/documents/MCGM%20Department%20List/EODB%20Circulars%20%26%20Notifications/2.%20Shops%20%26%20Establishment%20Department/English%20online%20circular%20no.6831.pdf>

<https://newautomation.mahavat.gov.in/newregistrationandreturn/index.html>

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Impact: The CRC has led to re-engineered processes and automation bringing the average time to incorporate a company to 0.3 days (as of December, 2016) and as per the methodology 5 procedures will now be clubbed into one procedure and timelines would be 0.5 days as entire process in completely online.

Effective Date: January, 2016

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6. Reform: In Mumbai, the procedures for VAT registration and Profession Tax have been clubbed into 1 consolidated procedure which one may apply online. There are a total of 11729 approvals were given in one day out of total 14929 application received in January, 2017

Impact: Reduction from 2 different procedures to 1, after introduction of electronic process there is neither requirement of inspections or physical touch points

Effective Date: January, 2017

URL: <http://www.mahavat.gov.in/Mahavat/MyFold/DOWNLOADS/EoDB%2029052017.pdf>

http://www.mahavat.gov.in/Mahavat/MyFold/KNOWLEDGE%20CENTER/TRADE%20CIRCULARS/DateWise/KNOW_TRADEC_DW_MVAT/KNOW_TRADEC_DW_MVAT_05_24_16_5_13_5PM.pdf

<https://newautomation.mahavat.gov.in/newregistrationandreturn/index.html>

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- II. COMMON / CORPORATE SEAL: The requirement of Common / Corporate seal was dispensed with in the Companies (Amendment) Act, 2015, yet it has been considered in last years' Doing Business Report.
- III. BANK ACCOUNT: Bank accounts are not required "mandatorily" for any forms during the procedures associated with starting a business and hence are incorrectly counted as a "procedure".
Only ESIC registration used to require bank account details previously, however, the practice was discontinued in April, 2016. The provision of bank account information has been made optional at the time of registration since then.

Impact: The corrections should reflect the actual statutory procedures applicable in India for starting a business.

Effective Date: 7(II)- 25th May, 2015, 7(III)- April, 2016

URL: 7(II)- http://www.mca.gov.in/Ministry/pdf/AmendmentAct_2015.pdf

7(III)-

http://esic.nic.in/backend/images/news_events_file/10aa661cb1e09fbc436614a9bed0e9a2.pdf

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(The process for drafting Memorandum and Articles of Association has been simplified with the introduction of eMoA and eAoA.)
 - II. Register with ESIC-0.5 Day (Simultaneous Process)-No Charge
 - III. Register with EPFO-0.5 Day (Simultaneous Process)-No Charge
 - IV. Register with VAT and Profession Tax; online and real time-0.5 Day-the cost is INR 500
 - V. Register with Shops and Establishment Act (online and real time)-0.5 Day (Simultaneous Process)-INR 4800

The procedures which are completely eliminated are:

- a) Procedure-1: Obtain a digital signature-The requirement of obtaining digital signature is not specific to registration of companies and a person may have digital signature readily available for a variety of online transactions. Hence, to count it as an additional procedure may reflect an incorrect stance. Evidently, this would not count as a procedure in case an individual is in possession of a digital signature. Further it takes only four hours to get the digital signature in India from Certifying Authorities. The cost of obtaining a digital signature is INR 899.
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- d) Procedure-13: Receive inspection and obtain the shops and Establishment Registration Certificate-Municipal Corporation of greater Mumbai has removed the requirement of inspection.
- e) Procedure-14 Registration for Profession Tax: This procedure is merged with VAT registration using an integrated online common application form.

Impact: After undertaking business reforms the final procedures stands at 5 and timeline is 1 day to start a business in India

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Digital Signature- INR 899
DIN for 2 directors-INR 1000
PAN-INR 107
TAN-INR 63

VAT-500

Registration under Shops and Establishment- INR 4800

The total is INR 11229 (USD 165) which is around 10% of income per capita (USD 1590).

Impact: The cost of starting a business reduced to 8% of income per capita.

Effective Dates: December, 2016

URL: <http://www.mca.gov.in/mcafoportal/enquireFeePreLogin.do>