Various Laws & Rules a Start-up Company needs to keep in consideration.

Tax Laws:

❖ Direct Tax:

✓ **Compulsory Maintaining Books of Account and other documents:**

if his income from business or profession exceeds Rs. 120,000 or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds Rs. 10,00,000 lakhs in any one of the three years immediately preceding the previous year; or

where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed Rs. 120,000 or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to Rs. 10,00,000 [during such previous year;

✓ **Filing of Income Tax Return:**

Based on type of person as defined under Income Tax definition, you have to file your Income tax return. In some case it would be only your Income tax and in some case it would be your entity as well your personal return.

✓ **Tax Deducted at Source (TDS):**

An Individual/Proprietor or a Hindu Undivided Family whose total sales, gross receipts or turnover from business or profession carried on by him does not exceeds the monetary limits(Rs.100,00,000 in case of business & Rs.25,00,000 in case of profession) under Clause (a) or (b) of Sec.44AB during the immediately preceding financial year shall not be liable to deduct tax u/s.194A,194C, 194H, 194I & 194J. So no tax is deductible by HUF/Individual in first year of operations of business even sales/Fees is more than Rs. 100/25 Lakh.

In case your entity is other than above two type of person, based on type of transaction you/your entity is liable to deducted TDS if the amount crossed the threshold amount as mentioned in Income Tax Act, 1961.

❖ Indirect Taxes

▪ Service Tax:

Service Tax is an indirect tax imposed on services provided However post Finance Budget 2013 service tax is also imposed on service received by reverse charge mechanism. The registration under ST is based on gross turnover/Top line of your entity. Where the turnover of your entity crosses Rs 9 lacs, the service provider is required to get it registered under the law, and is liable to charge service tax on services provided once the turnover crosses Rs.10 lacs. The rules pertaining to payment of service tax and filing of service tax return is based on your various factors and type of entity.

▪ Value Added Tax(VAT)

VAT is another type of indirect tax imposed on goods sold. This act is based at state level and each state has various rules for VAT.The registration under VAT is compulsory for dealer(your entity is termed as dealer) having turnover exceeding Rs 5 lacs (or increased limit of Rs 10 lacs in some states).On registration, such dealer is allotted a unique 11 digit TIN (Taxpayer's Identification Number). The registration can also be sorted on voluntary basis. The rate of VAT depends on type of goods and as defined under VAT schedules. The payment of VAT, filing of returns etc is based on type of entity.

▪ Central Sales Tax(CST)

CST is a form of indirect tax imposed only on goods sold from one state to another state, which particularly takes into account that the buyer and the seller needs to be in two different states. CST registration is not dependent on amount of turnover. Simply put, registration of dealer becomes compulsory once he affects an inter-state sale.

▪ Excise Act

The Central Excise is a tax on the 'act of manufacture or production' on all excisable goods which are manufactured or produced in India. It comprises of Basic duty in addition to Education Cess is a duty of excise which is to be levied @ 2% of the aggregate duty of excise and Secondary and Higher Education cess is payable at the rate of 1% on excise duty payable.

A manufacturer can enjoy SMALL SCALE BENEFIT which provides exemption to small scale manufacturer from whole of duty leviable on goods specified in annexure where the aggregate value of clearance of goods is up to Rs. 1,50,00,000. The person is defined as small scale manufacture whose value of clearance in the previous financial year has not exceed Rs. 4,00,00,000

▪ Customs Act

The Customs Act, 1962 which provides for levy of duty on imports as well as on exports at the rates which are prescribed under the Customs Tariff Act, 1975 read along with the relevant exemption notification. The taxable event to attract customs duty is import into or export from India. The export duties are applicable to a handful of commodities. The duties are of broadly of two types, Basic Duty and Additional Custom Duty.

The rate of duty and tariff valuation shall be as applicable on
(a) In the case of goods directly cleared for home consumption the date of the presentation of the bill of entry. (b) In case of goods cleared from warehouse, the date when bill of entry is presented for home clearance of such goods from the warehouse. In case, bill of entry is submitted prior to arrival of the vessel or the aircraft, the date would be the later of the date of submission of the bill of entry and the grant of entry inward to the vessel.

Corporate Laws:

Where your entity is having corporate status i.e. ***being private or public limited***, then it would have to comply with rules of Companies Act 1956.

✓ Few of the compliance to be followed by a corporate entity:

Appointment of Statutory Auditor, opening of Bank account in name of Company, conducting minimum number of board meeting in a year, maintain of books of account, maintenance of statutory register, appropriate notice for AGM, finalization of Financial statement, conducting Annual general meeting and various other compliance based on various factor applicable to your company.

Law governing your Employee's

Profession tax Act

An employer organization is required to get registered under the Profession Tax Act and obtain a **Registration Certificate** under which the payment in respect of taxes deducted from employees' salaries can be made.Also as a firm, the organization is required to obtain **Enrolment Certificate** and pay Profession tax on its behalf. The employer is liable to deduct profession tax from employee's salary as per the rate defined under respective states of India and same needs to be deposit with State government. The periodicity of payment and filing of profession Tax return depends on profession tax liability.

Employee's Provident Fund & Miscellaneous Provision Act, 1952

Applicable to every establishment which is a factory engaged in any industry specified in Schedule I and in which 20(twenty) or more persons are employed. Where contribution by employee stands to be 12% of his/her Basic pay + DA and equal contribution of Employer is bifurcated into Pension fund & provident fund. Where pension fund is calculated @ 8.33% on Basic pay + DA and balance fund is towards provident fund of employee.

Employees' Deposit Linked Insurance Scheme, 1976 (EDLI)

EDLI is basically an Life Insurance for all covered employees. Here where an employee dies while in service, his/her family will get compensation based on deposit in EPF account. In order to comply with this act, the employer has to contribute 0.5% of employee's Basic pay + DA as monthly premium

The Payment of Gratuity Act 1972:

The act is applicable to following category of establishment:

- Employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental with.
- Every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months;
- Such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf

Determination of Gratuity Amount

- For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned.

- To formulate the above explanation, it would be
  "Basic + DA (Wages Last drawn)* 15days * number of years of continuous service (six months or less to be ignored and more than six months to be counted as full year)"

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