

Submission to the Honorable PMO

Submissions for the Amendment in the Income Tax Act



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Sangeet Kr Gupta, CA



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Preface

1. Section 80JJAA has a wonderful bonanza for the “Make in India” initiative.
2. If the requested small changes are done. It will benefit the Make in India Business even more
3. Currently country might suffer due to small english words used/not used in the section

1 page Executive summary

1. The Rs 25000 limit is good today, but will become a farce after 5 or 10 years. So, please link it to Cost inflation Index
2. Currently intention to cover all forms of employment opportunities, but, some words like hospitals or “professionals” are excluded in the legal English used

Now in Detail



The Budget 2016 to 2018, each has now, made it “profitable” to Hire More Employees.



**WE'RE
HIRING!**

Our association is educating the businesses, that they can **Employ More people**: And Get 30% Extra Deduction



- If you hire, additional employees, You get the EXTRA Deduction in Income Tax. Section 80JJA
- If you pay Extra Wages : Rs 1 Crores, you get extra Deduction : 30 Lakhs extra for next 3 years.
- **Manufacturing of course,**
- **Service sector too, Trader as well, CA also, Software also, anybody...**

Example 1

- New company formed in April 2016.
- Employed its first 1st to 20th person in FY 16-17
- Salary per worker = Rs 12500, for 12 months.
- Salary paid to these new workers : Rs 30 lakh in the whole year (20 men x 12500 x 12 months)
- So, he will get 80JAA deduction as follows
 - for FY 16-17 = 9 lakhs as extra deduction
 - for FY 17-18 = 9 lakhs as extra deduction
 - for FY 18-19 = 9 lakhs as extra deduction

Example 2

- Case of an Old existing company formed in 1995
- Employed 100 persons as on 31.3.2016
- Employed 120 persons as on 31.3.2017
- No of the additional workers = 20
- Salary per worker = Rs 12500, for 12 months.
- Salary paid to these new workers : Rs 30 lakh in the whole year (20 men x 12500 x 12 months)
- So, he will get 80JAA deduction as follows
 - for FY 16-17 = 9 lakhs as extra deduction
 - for FY 17-18 = 9 lakhs as extra deduction
 - for FY 18-19 = 9 lakhs as extra deduction

Example 3

- Same company,
- Employed 100 persons as on 31.3.2016
- Employed 120 persons as on 31.3.2017
- Employed 135 persons as on 31.3.2018
- No of the additional workers = 15 in FY 17-18
- Salary per worker = Rs 12500, for 12 months.
- Salary paid to these new workers : Rs 22.50 lakh in the whole year (20 men x 12500 x 12 months)
- So, he will get 80JAA deduction as follows
 - for FY 16-17 = 9 lakhs
 - for FY 17-18 = 9 lakhs + 6.75 lakhs = Rs 15.75 Lakhs
 - for FY 18-19 = 9 lakhs + 6.75 lakhs = Rs 15.75 Lakhs

And the Benefit is ?



Law says... Section 80JJAA

- (1) Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in sub-section (2),
- be allowed a deduction of an amount equal to thirty per cent. of additional employee cost incurred in the course of such business in the previous year,
- for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

Who is eligible ?

- Available, if You are covered in Tax Audit
 - Any Business, with Turnover over Rs 1 crore
 - Any Professional, with Turnover over Rs 50 Lakhs
- Your nature of Business
 - Manufacturing, = **Allowed**
 - Trading, = **Allowed**
 - Any Service = **Allowed**
 - **Any other business = Allowed**



Problem no 1

PROBLEM



First Problem and Submission



- *Section 80JJAA (2) Explanation (ii) "additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include,—*
- *(a) an employee whose total emoluments are more than twenty-five thousand rupees per month;*
-

Topic number 1 : Rs 25000 ceiling

- **Topic** : if any employee has a salary over Rs 25000 per month, he/she is to be excluded for this calculation.
- **Submission**
- This is good thought, but this Rs 25000 all in cost is already at the margin.
- The Minimum wages currently are expected to rise to 18000 in New Delhi soon as per local government bill
- Add to this the Bonus @20% of minimum wage = 3600. Plus DA, CCA, Conveyance... it touches Rs 25000 within 2 years.

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Source : See the Google search

The screenshot shows a Google search interface in a browser window. The address bar displays the URL: <https://www.google.co.in/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=minimum+wages+in+delhi+AAP>. The search bar contains the text "minimum wages in delhi AAP". Below the search bar, the "All" tab is selected, and the search results show "About 3,38,000 results (0.91 seconds)".

The first search result is a snippet from a news article:

The **Aam Aadmi Party** government on Wednesday cleared a significant 46% hike in **minimum wages** for workers in **Delhi**. An unskilled labour will now be entitled to a **minimum wage** of Rs 14,052, up from Rs 9,568. Aug 22, 2016

Despite traders' fears, the Delhi government has done the right thing ...
scroll.in/.../despite-traders-fears-the-delhi-government-has-done-the-right-thing-by-hiki...

Below this snippet, there are two more search results:

AAP govt to raise minimum wages by 50% for Delhi's workforce | delhi ...
www.hindustantimes.com/delhi/aap...minimum-wages...delhi.../story-7NWxukc3tOI6... ▼
Aug 16, 2016 - AAP govt to raise **minimum wages** by 50% for **Delhi's** workforce ... Kejriwal announced a nearly 50% increase in **minimum wages** for the ...

Delhi government to restart minimum wage talks - The Hindu
www.thehindu.com > Cities > Delhi ▼
Sep 18, 2016 - Delhi government to restart **minimum wage** talks. The **Aam Aadmi Party** (AAP)

Minimum wages might rise by 50% soon, in some states

AAP govt to raise minimum wages by 50% for Delhi's workforce

HT Correspondent, Hindustan Times, New Delhi | Updated: Aug 16, 2016 00:26 IST



Kejriwal announced a nearly 50% increase in minimum wages for the Capital's workforce. (AFP File Photo)

Chief minister Arvind Kejriwal announced on Monday a nearly 50% increase in

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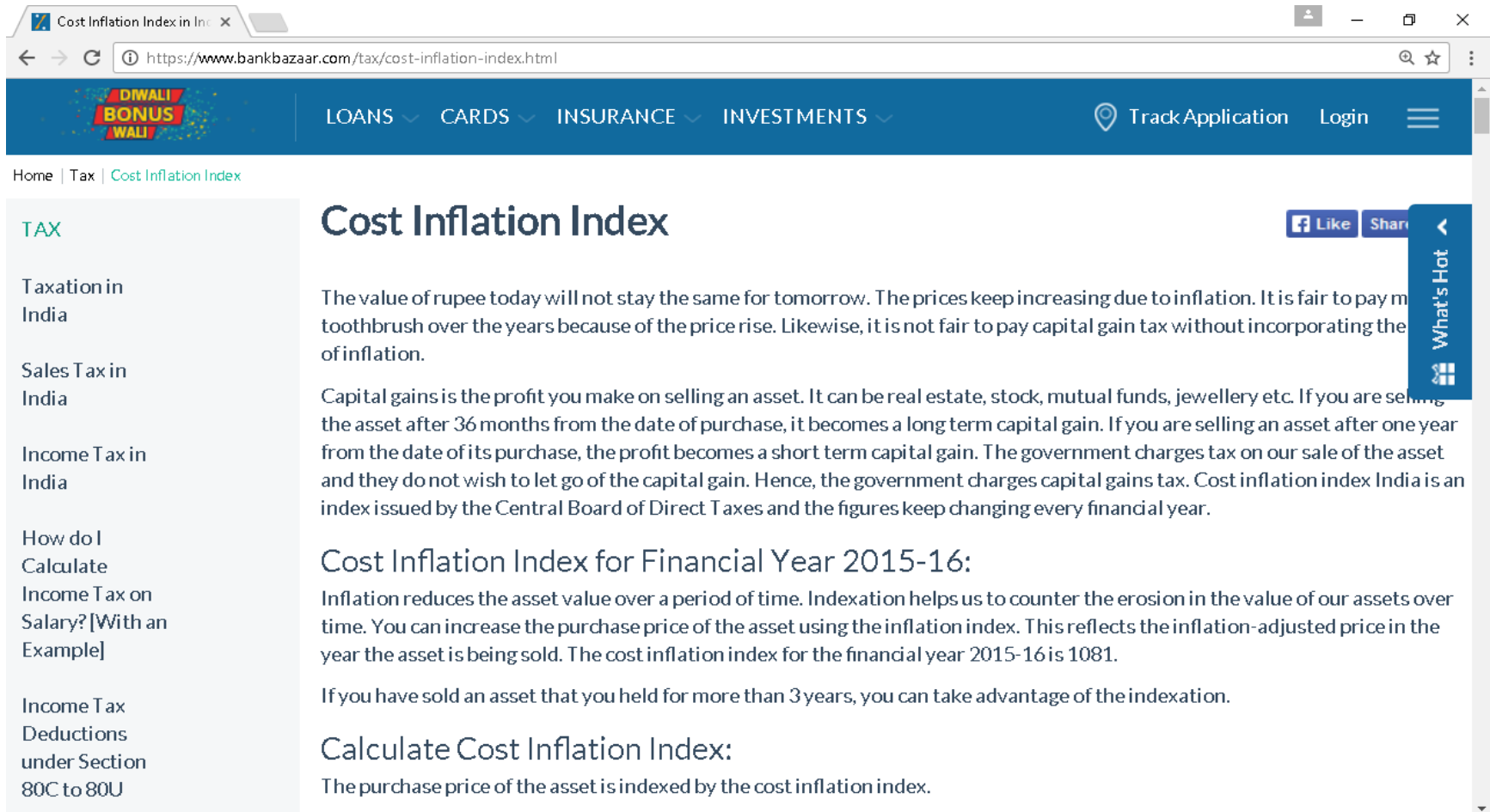
Reason for concern

- The Local Delhi government's proposal is to **raise the minimum wage** of an unskilled person from Rs 9,568 to Rs 14,052. Besides, wages for semi-skilled and skilled people will increase from Rs 10,582 to Rs 15,471 and from Rs 11,622 **to 17,033.**
- Source :
- <http://www.hindustantimes.com/delhi/aap-govt-to-raise-minimum-wages-by-50-for-delhi-s-workforce/story-7NWxukc3tOl67NeX53S99O.html>

Effect of Minimum Wages on this 80JJA

- Minimum wages say Rs 17033 p.m.
- Add DA
- Add CCA
- Add HRA @40%
- Add Education Allowance
- Add Conveyance Allowance @1600pm
- Add Payment of Bonus Act Bonus @20% of minimum wage = 3600. pm
- it touches Rs 25000 immediately or Maximum within 2 years.

Our Suggestion : Simply Link this Rs 25000 ceiling to Cost inflation Index... same as for Capital Gains section



The screenshot shows a web browser window with the URL <https://www.bankbazaar.com/tax/cost-inflation-index.html>. The page has a blue header with navigation links: LOANS, CARDS, INSURANCE, and INVESTMENTS. There are also links for 'Track Application' and 'Login'. A 'DIWALI BONUS' banner is visible on the left. The main content area is titled 'Cost Inflation Index' and contains the following text:

The value of rupee today will not stay the same for tomorrow. The prices keep increasing due to inflation. It is fair to pay more for a toothbrush over the years because of the price rise. Likewise, it is not fair to pay capital gain tax without incorporating the effect of inflation.

Capital gains is the profit you make on selling an asset. It can be real estate, stock, mutual funds, jewellery etc. If you are selling the asset after 36 months from the date of purchase, it becomes a long term capital gain. If you are selling an asset after one year from the date of its purchase, the profit becomes a short term capital gain. The government charges tax on our sale of the asset and they do not wish to let go of the capital gain. Hence, the government charges capital gains tax. Cost inflation index India is an index issued by the Central Board of Direct Taxes and the figures keep changing every financial year.

Cost Inflation Index for Financial Year 2015-16:

Inflation reduces the asset value over a period of time. Indexation helps us to counter the erosion in the value of our assets over time. You can increase the purchase price of the asset using the inflation index. This reflects the inflation-adjusted price in the year the asset is being sold. The cost inflation index for the financial year 2015-16 is 1081.

If you have sold an asset that you held for more than 3 years, you can take advantage of the indexation.

Calculate Cost Inflation Index:

The purchase price of the asset is indexed by the cost inflation index.

On the right side of the page, there is a 'What's Hot' sidebar with a 'Like' button and a 'Share' button.

This will be a permanent solution



- So, this section will not need increase in this limit year to year.
- You may keep this at 25000 for FY 16-17.
- And year on year, same proportion of increase as in the CII (Cost Inflation Index)
- This will be Fair to all.

Exact Proposal of our Association

Kindly add a sentence and 1 example at the end of this section.

- “That the limit of Rs 25000 mentioned in this section shall be increased year to year in the proportion of the Cost Inflation Index declared by the Government u/s Section 48 Explanation (v) and taking the base year as Financial 2016-17.”
- For Example : if Index for FY 16-17 is 1125, and Index for FY 17-18 is 1200, then the limit of Rs 25000 shall be automatically enhanced to $25000 \times (1200/1125) = \text{Rs } 26667 \text{ p.m.}$

Problem no 2

PROBLEM



Third Problem and Submission



- **80JJAA.** (1) *Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.*

The Word “Business” ... vs Profession

- **Topic** : On one hand, we are saying that this section is now available to all. Whether it is manufacture or service or trading...
- But, in legal language the word used is “Business”.
- And Profession is not included ???
- Today services sector is 56% of economy and most of it is “profession”
- Income tax has distinction in business and profession
- **Submission**
- This is a minor framing oversight apparently.
- If not rectified immediately.
- But, it is leading to strenuous tax conditions for the employer
- It will lead to wrong erroronous assessments
- And it may lead to harassment by the hands of (some) unscrupulous officers

Example



- Tax audit limits are separate for “Business” and “Profession”. 50 lakhs vs 2 crores
- 44AD is for business, and 44ADA is for professional.
- Income tax Forms treat them separately.

Implications



- The words used in the section can be wrongly used against the innocent tax payers to say that
 - All Hospitals : 80JJAA benefit is not available
 - All CA/CS/ICWA : 80JJAA benefit is not available
 - All Software professionals: not available
 - All Architects : 80JJAA benefit is not available
- But was this the intention of the law ?
- Intention was to increase jobs.

Our Submission

- Currently this is the sad meaning of the law
- It means, almost 50% of the businesses in India, who have TDS u/s 194J (TDS professional) might be out of Section 80JJAA benefit
- So, no use of employing more people ???
- Humble Submission
- **Is that the intention of the law ?**

Exact Proposal of our Association

- Kindly issue a CBDT notification, to clarify and say, that
- In this section, wherever the word “Business” is used, it shall mean to include the word “Professions” also

This should also be taken as a
“clarification”

This should be issued as a clarification in the law.

This is to add clarity

This is not any request for “additional benefits”

This was always the intention



But clarification is required

Our First idea on making this section 80JJAA better
to the PMO was : PMOPG/E/2015/0111892 :
It was accepted . Thank you Sirs


privat x Lg_Electronics_India_Priva x :: Write to the Prime Minis x San

pgportal.gov.in/pmocitizen/Grievancepmo.aspx

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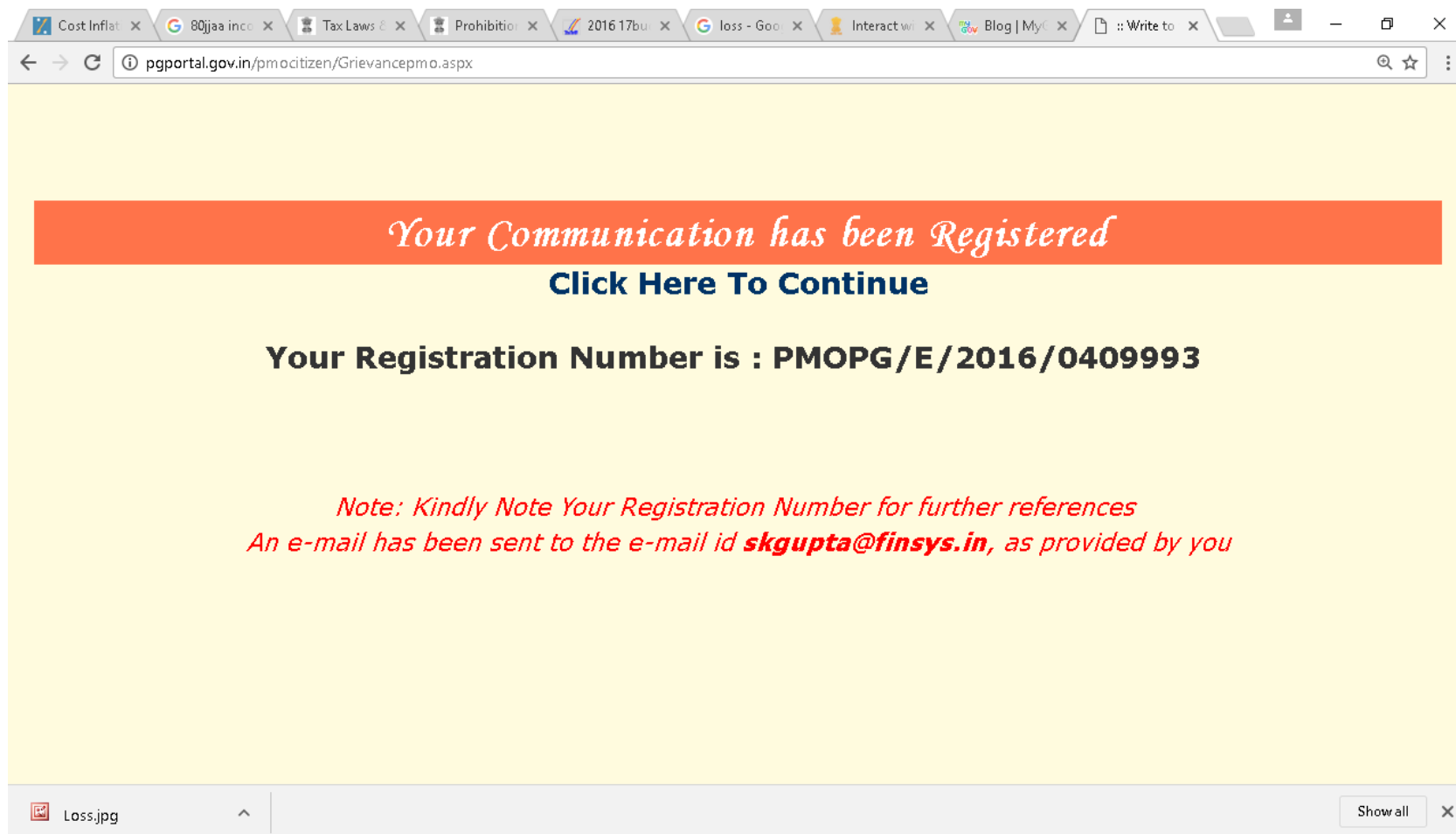
Your Registration Number is : PMOPG/E/2015/0111892

*Note: Kindly note your Grievance Registration Number for further references
An e-mail has been sent to the e-mail id **skg@finsys.in**, as provided by you*

Our second amendment request was

PMOPG/E/2016/0409993

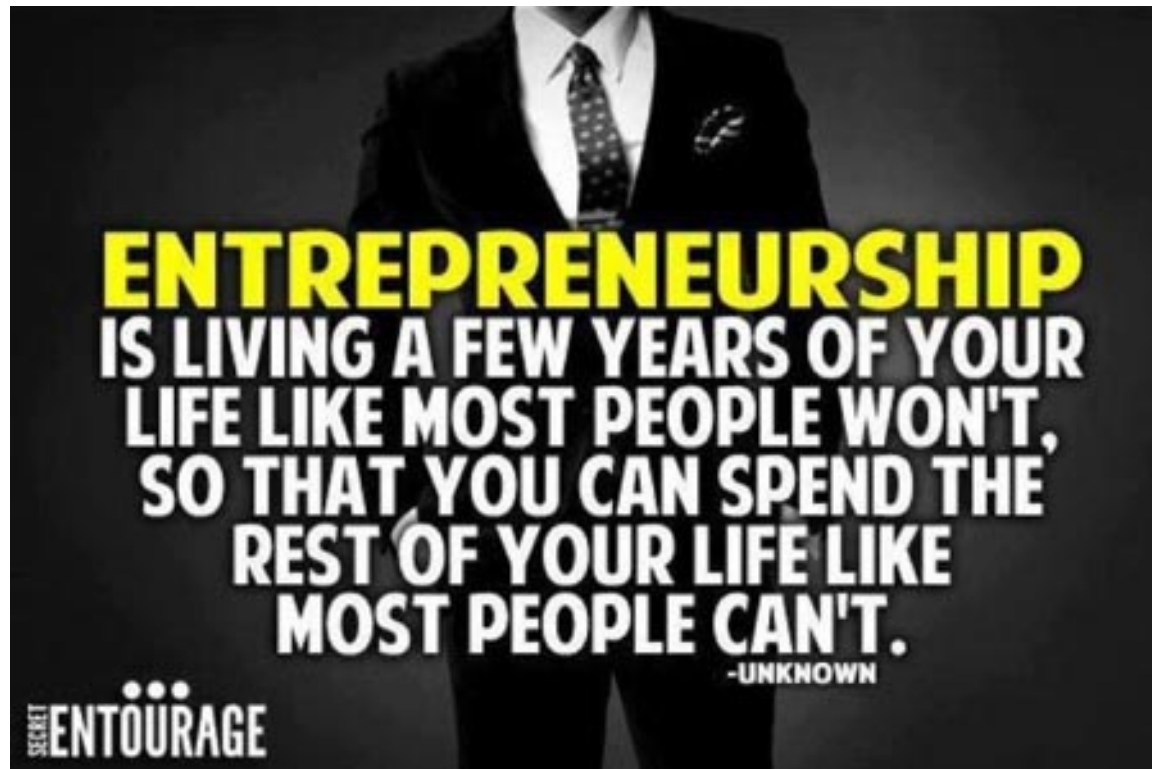
This was also accepted and Action taken



Thank you Finance Minister

- This was a suggestion, submitted by our I-am-SME-of-India” with the Ministry of Finance in FY 15-16. and also FY 16-17
- And you have so, kindly , totally rehashed the law, and accepted our request.
- We thank you.
- Just small minor changes need to be made to make this even better.

We at I-am-SME-of-India, welcome the spirit of Entrepreneurship



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For queries, suggestions and feedback , you can e-mail us

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Kindly give us an opportunity to present ourselves



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