

# An Overview of the National Policy on Software Products, 2019 and Role of CAs



*India's first software policy of 1986 resulted in the Software Technology Park (STP) scheme in 1991. Undoubtedly, the policy was highly successful, with the information technology (IT) industry today accounting for more than 8% of the country's Gross Domestic Product (GDP). However, the past few years have seen a serious decline in IT sector growth, owing to the rapid, global transformation in the technology and software industries. Thereby, in order to address the relevant global strategic paradigm shifts, Government has issued the draft on National Software Policy. As per NASSCOM Strategic Review 2017, the Global Software Product Industry is estimated to be USD 413 billion. However, the contribution of Software Products in Indian IT-ITES revenue is just USD 7.1 billion out of which 2.3 billion USD are exports. On the other hand, import of Software Products is estimated to be nearly 10 billion USD. As such India is a net importer of software products at present. Now Central Government issued a National Policy on Software Products (NPSP). Read on to know about the policy and the role of Chartered Accountants in this area.*



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## Background

The National Policy on Software Products (NPSP) aims to develop India as the global software product hub, driven by innovation, improved commercialisation, sustainable Intellectual property (IP), promoting technology start-ups

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and specialised skill sets, for development of the sector, based on Information and Communications Technology (ICT).

The Software product ecosystem is characterised by innovations, Intellectual Property (IP) creation and large value addition increase in productivity, which has the potential to significantly boost revenues and exports in the sector, create substantive employment and entrepreneurial opportunities in emerging technologies and leverage opportunities available under the Digital India Programme, thus, leading to a boost in inclusive and sustainable growth.

## Purpose

- To increase share of the Global Software Product Market ten-fold by 2025 (USD 70-80 Billion) by revamping the software product sector, which is still in its infancy stage.
- It aims to create direct and indirect employment opportunity for 3.5 million people by 2025 by nurturing 10,000 technology startups in Tier -II and Tier-III towns and cities.
- To create a talent pool for software product industry through (i) up-skilling of 1,000,000 IT professionals, (ii) motivating 100,000 school and college students and (iii) specialise 10,000 professionals that can provide leadership.
- To build a cluster-based innovation driven ecosystem by developing 20 sectoral and strategically located software product development clusters having integrated ICT infrastructure, marketing, incubation, R&D/test best and mentoring support.
- Establish National Software Products Mission as a single window to evolve and address all issues related to the sector.

## Strategies

Presently, Software product industry is grappling with following issues with respect to tax and regulatory aspects: -

- Whether this is a goods or service by having its intangible existence. In Pre-GST regime this issue was under serious discussion and somehow Hon'ble Apex court's TCS judgement, was guiding factor

to decide but again it opens a Pandora box under GST since the levy of tax on manufacture/sale, replaced with supply.

- Income Tax Law treats software payment as Royalty. But if packaged software (shrink wrapped software) is goods than it shall not come under purview of Royalty. A large debate is on this subject due to different ruling by various high courts. Hopefully, Apex court's ruling will clear the air which is expected in coming days.
- More than this, no clarity on virtual delivery in case of software product is being delivered through internet/email
- Moreover, no clarity about export of computer software whether software product companies are required to get registered under STPI as non-STP unit.
- There is no clear position as to how RBI takes export date on records.

Hopefully the new Policy will help to remove difficulties to a large extent by opening a single window platform.

**Promoting Software Products Business Ecosystem:** By creating a common pool of Indian Software Product thereby providing a trusted trade environment. A single window platform will be established for facilitation of Indian software product industry in fact-tracking legal and regulatory issues.

**Promoting Entrepreneurship and Innovation for Employment: An outlay of ₹ 1500 Crore is involved to implement the programs/schemes envisaged under this policy over the period of 7 years. Further, the policy proposes create a ₹ 5,000 Crore-fund with industry participation to promote emerging technology such as Internet of Things, Artificial Intelligence, Blockchain, Big Data, and robotics. Of this, government contribution will be ₹ 1000 Crore.**

**Creation of Model HS Code:** Presently, shrink wrapped software is being treated as Goods under HSN 85238020. But whether standard upgrades on software product, is goods or services, has not yet been clarified. There is difference in customisation for a client or standard services for all. Software product companies do continue development

and provide new upgrades. These upgrades are not for a specific customer but for all customers whoever opted for availing upgrades. There is no clarity as of now as to what is the treatment for this under GST. A classification system for Indian software products, including standard services will be evolved through a model HS code which will be further sub categorised based on the type of software products its inter-linkages with other economic sectors including services and hardware manufacturing.

**Tax incentive for Capex in software:** As of now, Income Tax law provides an additional deduction to the extent of 50% of capex investments in case of approved in-house R & D units but there is sunset clause in this. This is available till 31<sup>st</sup> March 2020. It is highly difficult to say that Government will extend this benefit in view of reduction of corporate tax rate and removal of all incentives. By introducing this policy, the Indian Software Product Companies might be allowed to set off tax payable, if any, on the investments made (on an accrued basis) in R&D of indigenous software products.

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**Skilling and Human Resource Development:** Today, Government's focus on skill development is visible. This policy will have a skills programme which would be initiated for up skilling/reskilling of IT professionals in emerging technologies via (i) modification in existing course curriculum, (ii) short term training program, (iii) national competency tests in consultation with the industry under National Skill Development Mission.

**Improving Access to Domestic Market and Cross Border Trade Promotion:** Alignment of registry of Indian Software Products will be integrated with Government e-mark (GeM), Government procurement in line with the Public Procurement (Preference to Make in India) Order 2017. Setting-up of specialised infrastructure in India and abroad

for Software Product development to enhance presence of Indian Innovation in global markets. Various countries in Middle East and African zone are implementing new taxation laws like recent example of VAT in UAE. Indian Software product companies can enter in all these emerging markets and can provide a better software solution. Governments of these countries are also promoting software product companies to enter in their territory and help them to bring simple and tax compliant software solutions. This policy will boost to Indian exports.

**Implementation Mechanism:** To establish "National Software Product Mission" to be housed in Ministry of Electronics and Information Technology under a Joint Secretary, with participation from Government, Academia and Industry. Recommend specific policy measures to ensure an enabling ecosystem for design, development, innovation, value addition and monitor Software Product Development Fund, Research and Innovation Fund.

## Opportunity for Software Product Companies

Once policy is rolled out, there would be great opportunity for software product companies in India to do innovation and acceleration in this industry. This can happen through following ways:-

- a) Use of single window platform for easy of business for solving regulatory issues e.g., import and export; setting up and winding up enterprises.
- b) Claim the benefit of specific tax regime for software products by distinguishing them from software services via HS code and also claim tax incentives as the policy allows setting off tax payable on investments made on R&D of indigenous software products.
- c) Preferential inclusion in government procurement as offset partners vis-a-vis the usage of the product in and inclusion in international agreements, especially where Govt of India has ties with other countries.
- d) Early market access and Dedicated market access (domestic and international) which will help accelerate the growth of the company.

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- e) Utilisation of SPDF upon its creation of INR 5000 crore to invest in start-ups and Indian software product companies.
- f) Apply grant in aid of INR 500 Crore to support research and innovation on software products.
- g) Break through to participate in the government e-marketplace to improve access to opportunities in the domestic market. (access to first market).
- h) Utilise the Technical & Infrastructure assistance; Marketing and Branding support; Mentoring support under the policy.
- i) Explore the options on 20 Grant Challenges which will focus on Education, Healthcare & Agriculture thus further enabling our software products to solve societal challenges.

## Opportunity for Software Professionals and Chartered Accountants

This policy will help not only to software product companies but also it can become a great opportunity for software professionals and chartered accountants. Currently, most of the computer engineers choose to join a software company. Rarely, somebody thought about making software product.

Today, a lot of CA professionals are engaged in coding, data analytics, testing and engineering of software products. Invoice matching is backbone of GST and that can be done only through easy software products. In today's environment where compliance of taxation laws is fully dependent on technology, the inputs of CAs can substantially help in development of ease to use and fully compliance-oriented software products.

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## Way Forward

The National Software Policy, 2019 provides an analytical framework to initiate and strengthen the software-driven information technology sector in the world. This has now to be leveraged in action by creating the product registry, creation of HS code, integrating it with GeM and other platform to create a momentum in Software product and ensure multi-pronged development of India as a Product Nation in true letter and spirit.

The policy is aimed to sustain India as a global power in Software industry in emerging technological changes impacting the industry. This is not limited to startups but also encompasses the existing product companies in the market. This policy would lead to a jump in country's software ecosystem which will also promote 'Start-up India', 'Make in India', 'Digital India', and 'Skill India'. The whole 'Start-up India' action plan is supposed to lead to India-centric innovative companies and prevent brain drain. The significance of the policy would be in creating more India-based software product companies. The efforts of other departments will supplement the programme and target sector-specific needs. This will also open doors for developers in the field of cyber architecture.

With proper execution of all that is proposed in the Policy, it will ensure that India has a hospitable environment for software industry. It will go a long way in providing the cutting edge to Indian software products and industry. ■