

Tax Hotline

September 17, 2003

TASK FORCE EXAMINES THE ISSUE OF TAXING FOREIGN CLIENTS OF INDIAN BPO SERVICE PROVIDERS

The Indian Government has recently set up a task force for examining whether a foreign company, that has outsourced some of its business operations to a BPO service provider in India, would be subject to tax in India. Incidentally, the Indian BPO service provider itself is generally eligible for a tax holiday benefit up to March 31, 2009.

The issue of whether the foreign company would be subject to tax has become relevant in view of the recent amendment to the meaning of the term 'business connection' in the Finance Act, 2003, wherein the relationship between an Indian agent and a foreign entity can be termed as a business connection, thereby making it possible under certain circumstances to subject the foreign company to tax in India.

For BPO service providers that provide services to a large number of clients, there does not seem to be any cause for worry as such providers are unlikely to constitute 'dependent agents' of their clients. However, the task force is examining whether clients of captive BPO service providers could be brought within the Indian tax net. It is likely that transfer-pricing norms may also be examined and rules for transactions between the captive BPO service provider in India and the foreign parent may be tightened.

Industry representatives, in their meeting with the task force, have strongly suggested a cautious approach to any amendment in the tax regime to ensure that the Indian BPO sector does not lose out to competitors in other jurisdictions.

For more information, please [Click here](#) to refer to the article that was recently published in Express Computer, a leading publication catering to the IT segment. The views of Shefali Goradia, (Head - International tax practice) and Vaibhav Parikh, (Head - Technology law practice) of our firm have been reflected in this report.

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