

Tax Hotline

May 03, 2004

CLARIFICATION ON INDIAN BPO TAXATION REGIME

Outsourcing is the flavor of the season and India being a significant player in this field finds itself in the midst of all the action, especially with regard to the developments on BPO taxation front. The recently concluded conference, "Outsourcing/ Offservicing to India" ("**Conference**") organized by San Jose State University and Tax Executives Institute held on April 23, 2004 at Palo Alto, California, covered the legal and practical aspects of the Indian BPO taxation regime. This hotline brings to you the views expressed at the Conference by Mr. A. J. Majumdar, Joint Secretary, Foreign Tax Division, Central Board of Direct Taxes ("**CBDT**") on taxation of outsourcing companies in India.

Mr. Majumdar addressed the conference attendees, which included leading technology companies in the Silicon Valley, remotely from New Delhi via telecon. In his telephonic address, Mr. Majumdar gave comfort and assurance to the delegates present that India does not intend to digress from internationally accepted principles of international law as enshrined in the OECD Model Tax Convention and the various tax treaties that India has entered into. **Click here** for the full text of the news item that reported the views expressed by Mr. Majumdar at the Conference.

The BPO industry found itself in worrisome situation when the CBDT issued **Circular 1 of 2004** ("**Circular**") regarding the extent of attribution of global profits to taxation in India, of the non-resident companies engaged in BPO activities. While the intention of the CBDT was to clarify the rules of attribution of income to Indian PE in case of BPO industry, it seems to have done quite the opposite. Thus, Mr. Majumdar's comments at the Conference were welcomed by the attendees who have been grappling with issues thrown up by the Circular.

The panelists at the Conference were a mix of representatives from industry and profession alike. The panelists included senior executives of top high tech companies in the Silicon Valley such as Intel and Oracle and senior partners of top professional firms like Baker & McKensie, Wilson Sonsini, Deloitte, Price Waterhouse Coopers and others. The other interesting issues that were tackled at the Conference were availability of tax credit in the U.S. for the additional dividend distribution tax paid by the Indian subsidiary, issues on IP protection and enforcement in India, financial reporting and corporate governance Issues under the Sarbanes Oxley Act etc.

Source: *The Economic Times Article, April 30, 2004.*

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