

Outsourcing –India’s Advantages

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Industries worldwide are increasingly using offshore outsourcing as a way to cut operational costs. With its huge pool of skilled yet cheap labor, India has rapidly emerged as an important location for offshore business process outsourcing (BPO) and call centers.

The Government of India offers a reasonably painless environment for establishing a BPO or call center, and state governments are competing to provide the best on-the-ground infrastructural and legislative frameworks.

Establishing a BPO involves two-steps:

Step I: Organize a company in India under the *Companies Act, 1956*. This process takes between two and six weeks. Foreign investment is freely permitted for setting up a BPO or call center.

Step II: Register the new company as a 100% export-oriented unit with the Software Technology Parks of India (STPI). This takes four to eight weeks. The STPI is an independent society formed by the Ministry of Information Technology to facilitate software exports. Today, it is the catch-all agency for the promotion of all IT-related export services. The STPI scheme is implemented by the state governments. STPI registration gives a company such benefits as income tax and customs duty exemptions, and exemptions from many labor laws.

For call centers, one additional step is required. Simultaneous with its STPI registration, the company must apply to the Department of Telecommunications (DOT) for permission to operate a call center. This is important because current Indian telecom policy prohibits VoIP calls from terminating at a telephone in India. Call centers are exempt from this prohibition and can use VoIP to terminate overseas calls at a telephone within the call center. However, they cannot permit voice traffic to flow outside the call center.

One potential obstacle to the further development of BPOs and call centers is India’s complex web of largely archaic national and state labor laws. These laws do not facilitate BPOs and call centers. Therefore, companies registered under the STPI scheme are exempt from many labor regulations, which has helped facilitate the necessary 24-7-365 work culture. However, these exemptions are not unconditional and state governments require certain conditions to be fulfilled before an exemption is granted. This is primarily to protect the labor force from being exploited.

India's *Income Tax Act, 1961* exempts the profits of BPOs and call centers registered with the STPI from income tax. In most cases, 100% of the profits are exempt for the first few years, followed by several more years of partial exemptions. India has an 8% service tax for most kinds of services. The government has already exempted certain kinds of call centers from this service tax and the next budget is very likely to introduce more exemptions in this area.

India is a signatory to the World Trade Organization's Trade-related Aspects of Intellectual Property Rights (TRIPS) Agreement. Consequently, the government recently promulgated a new *Trademarks Act* which, for the first time, allows the registration of service marks (See Dec 2003/Jan 2004 issue of *Asialaw*, p. 50). More notably, on December 22, 2003, the government introduced a new *Patents (Amendment) Bill* to provide for the protection of product patents in all fields of technology.

India still lacks any significant data encryption laws. However, the government is considering new data protection laws.

Relocating certain operations offshore is a politically sensitive subject as the U.S. economy begins what may be a long-term revival. However, the U.S. and other developed nations cannot ignore the economic reality of moving some operations offshore given the huge net benefit it generates. India – with its English-speaking labor force and progressive government policies – will remain a leading destination for BPOs and call centers for the foreseeable future.