

Business Process Outsourcing is booming in India and is set to grow in leaps and bounds in coming years. An offshoot of the phenomena is the processing of US tax returns in India. As per media reports, there has been a steady rise in the number of returns that are being sent to India for further processing. This scenario offers tremendous opportunities for the Chartered Accountants.

# Outsourcing of tax returns to India: AICPA guidelines

—Lubna Kably

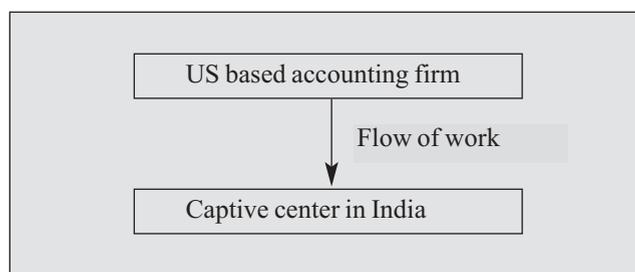
As in the case of any other outsourcing activity, cost benefits together with the availability of qualified and semi-qualified professionals in India, is the main impetus for the increasing interest shown by US accounting firms to send data to India for processing of tax returns.

A few mega accounting firms have set up captive centers in India that employ both qualified chartered accountants and accounts graduates. Yet, other US accounting firms outsource data to various professional entities in India (most are structured as private limited companies) that carry on the activity of processing data and preparing the US tax returns.

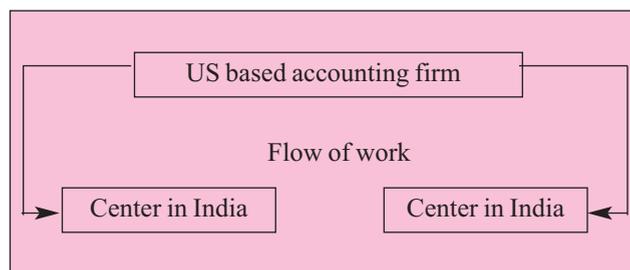
## Models of outsourcing activities

The various models of such outsourcing activities are as follows:

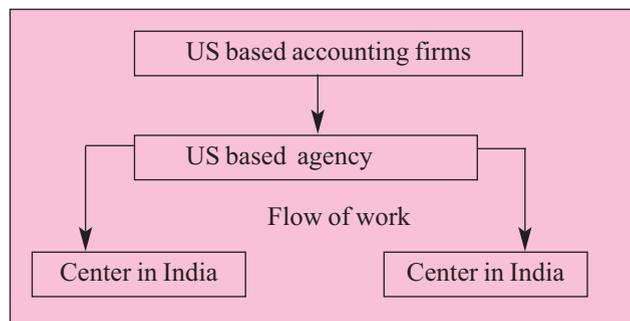
**Model 1:** A captive center is set up in India by a US-based accounting firm. The center in India processes the tax returns of the clients of the US firm.



**Model 2:** It is a variant of the first model. Here, a US-based accounting firm does not set up a captive center in India. However, it makes available data, for the purpose of processing of tax returns of its clients, to several service providers in India.



**Model 3:** An US based agency acts as the middleman. It collects data from various U.S. based accounting firms, and sends such data for the purpose of processing of tax returns, to either its captive in India or to several service providers in India.



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The common thread in all the above three-models is that the work of data processing and

preparation of tax returns of the clients of the US based accounting firms is carried out by third-parties in India.

Chartered accountants in India, whether they are entrepreneurs and owners of such outsourcing centers in India, or are mere employees in these centers, cannot and are not obliged to attest the US tax returns processed by them. It is the US accounting firm that is ultimately responsible for the work carried on for its client.

Nonetheless, Indian chartered accountants engaged in such activities must be aware of the 'New Ethic Rules' released by The American Institute of Certified Public Accountants (AICPA) for its members.

These ethic rules that have been adopted by The AICPA have been released on November 4, 2004. The AICPA ([www.aicpa.org](http://www.aicpa.org)) is the professional organization of US qualified CPAs, similar to the ICAI it sets down ethical standards for the profession.

### Highlights of the New Ethic Rules

These rules spell out the responsibilities that members of the AICPA must comply with

when outsourcing their client's work to third-party providers. All the provisions are required to be read together as a cohesive whole. The highlights are as follows:

- AICPA members are required to inform their clients (preferably in writing) that the firm will use a third-party service provider when providing professional services to the clients.
- AICPA members are responsible for all work performed by the service provider
- AICPA members using third-party service providers are required under the new rules to enter into a contractual agreement with the third party service provider for ensuring confidentiality of their client's data.

Interestingly, the definition of a third-party service provider has been broadened beyond an outside tax service bureau to include any third-party service provider used by members of the AICPA.



These new rules come into effect for all professional services performed by members of the AICPA on or after July 1, 2005. The only exception is in respect of the professional services performed, pursuant to agreements in existence on June 30, 2005, that are completed by the end of the year 2005.

### Synopsis of the New Ethic Rules

The New Ethic Rules can be found on the website of the AICPA. **Integrity and Objectivity**– In the

context of outsourcing and in the backdrop of Rule 102 and Article III, the AICPA calls upon its members to inform their clients, preferably in writing, that he or she may use a third-party service provider. If a client objects to the member's use of a third-party service provider, the member is required to provide such client professional services without the use of the third-party service provider or else he or she is required to decline the engagement. The AICPA has further clarified that its members are not required to inform the client, if the third-party service provider merely provides administrative support services, such as record storage or software application hosting services.

#### Confidential Client Information

– The AICPA has clarified that Rule 301 is not intended to prohibit a member in public practice from disclosing confidential client information to a third-party service provider used by such member for the purposes of providing professional services to clients or for administrative support purposes.

But, before using such a third-party service provider, the AICPA member is required to enter into a contractual agreement to maintain the confidentiality of the information. He or she is required to be reasonably assured that the service provider has appropriate procedures in place to prevent the unauthorized release of confidential information to others. If such agreement has not been entered into, the AICPA member is required to obtain specific client consent before disclosing confidential client information to such third-party service provider.

**Responsibility of the AICPA Member** – Use of a third-party service provider does not absolve the AICPA member of its responsibilities, as set out in Rules 201 and 202. Thus, such member remains responsible for adequate oversight of all services performed by the third-party service provider and for ensuring that all professional services are performed with adequate competence and due professional care.



vices, in addition to the steps laid down in their service contract with the US based party/parties, must ensure that they act in a professional manner as befits a member in the industry.

Systems and procedures must be carefully drawn up and sub-

jected to periodic review. Care must be taken to ensure that there is no leakage or misuse of data made available to them for further processing.

It must be well documented, that the responsibility of the accuracy of the US tax return that has been processed in India, is that of the US agency or accounting firm. In no manner, should Indian chartered accountants profess expert knowledge of US tax laws. It should be clear that their role is limited to processing of the data and that the final responsibility of the data processed is that of the US based entities. ■

### Conclusion

Members of the Institute of Chartered Accountants of India, engaged in providing such ser-

## All India CMII Conference in Mumbai

<b>Date</b>	21st -22nd JANUARY, 2005	<b>Conference Fees</b>	Rs.1,600	<b>CPE CREDIT</b>
<b>Venue</b>	Jamshed Bhabha Auditorium, NCPA, Nariman Point, Mumbai - 400 021			<b>10 HOURS</b>
<b>DAY 1: Friday, January 21, 2005</b>		<b>DAY 2: Saturday, January 22, 2005</b>		
Inaugural Session	10.00 a.m. to 11.00 a.m.	Corporate Taxation- Tax Planning & Latest Tax Issues	10.00 a.m to 12.00 p.m	
Tea Break	11.00 a.m. to 11.15 a.m.	Tea Break	12.00 Noon to 12.15 p.m.	
– Accounting Standards- Case Studies	11.15 a.m to 1.15 p.m	Special Address by prominent Industrialist(s) on "Expectation from C.A's in Contemporary Business Environment"	12.15 p.m. to 1.15 p.m.	
– Service Tax & Cenvat Rules		Lunch	1.15 p.m. to 2.00 p.m.	
Lunch	1.15 p.m. to 2.00 p.m.	Corporate Financial Management : Latest trends & cost reduction techniques in Resource Mobilisation	2.00 p.m. to 3.00 p.m.	
Special Address on Corporate Governance	2.00 p.m to 2.45 p.m	Tea Break	3.00 p.m. to 3.15 p.m.	
Tea Break	2.45 p.m. to 3.00 p.m	Panel Discussion on Value Investing in Stock Markets- Prominent Investors, Brokers and advisors will participate	3.15 p.m. to 4.30 p.m.	
Risk Management & Management Audit	3.00 p.m. to 5.00 p.m.			
<b>Conference Director: Shri Pankaj Jain, FCA,</b>				
Chairman, Committee for Members in Industry Email : pankaj@icai.org				
<b>Programme Co-ordinators</b>				
(1) Shri Surinder Pal, Secretary, Committee for Members in Industry, The ICAI, P.O.Box 7100, Indraprastha Marg, New Delhi-110002, Ph: 011-23378310 (D), 23370055 ext.450/439, Fax: 011-23379610, Email: spal@icai.org				
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