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LLP model to expand India's legal industry

By Rashida Yusufzai | Friday, 7 November 2008

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The limited liability partnership Bill recently passed by India's parliament will encourage the establishment of more law firms and bring the country's legal sector into line with its international counterparts, said India law firms.



"The LLP structure has been a much awaited one in India, and will aid the growth of professional firms by providing them the flexibility and statutory framework they need to establish and expand," said Vivek Kathpalia, partner at India firm Nishith Desai Associates.

The new Bill will remove restrictions on the number of partners allowed (currently limited to 20), and limit the liability of partners, with a firm now being liable as a separate legal entity. The industry should expect to see more law firms sprouting as a response to the liberalisation, said Kathpalia.

"It will allow law firms to grow larger in a more aggressive fashion, encouraging the growth of existing as well as new law firms," he said. "The Bill also covers amalgamations between LLPs. This should allow for easier consolidation in the market as well."

However, the government has been silent on how LLP firms will be taxed, which is a major issue for existing firms seeking to convert to the new model.

"It is very important for this to be clarified," said Kathpalia. "In India, currently a partnership is taxed as a separate entity at the rate of 34% and partners are not taxed when they receive distribution from the partnership. Further, the system itself is unfair as partners receiving small incomes and those receiving high incomes are all effectively subject to the same rate as the partnership itself. The Bill is also silent on whether capital gains and stamp duties would be payable on a conversion of an existing partnership to an LLP."

The capital gains tax issue has some other law firms hesitant to change to the new model. Delhi-based law firm Luthra & Luthra has said that this would make it too expensive to convert. Nishith Desai Associates, however, is waiting to see how the Bill develops.

"We would definitely consider (converting to LLP model) once the law is enacted and things are clearer. It would depend on what final shape the law takes," said Kathpalia.

The liberalisation of the Indian legal industry has been a hot topic in the last month, as both local and foreign firms await a decision by the Bar Council of India whether to approve the entry of foreign law firms.

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I expect that the expansion and liberalisation of India's legal industry will add to the market depth. It offers enormous scope and numerous opportunities to foreign law firms to operate profitably in India.

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