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COVER

With strong oil prices and a tight rig market, contractors worldwide are seeing increasing dayrates. Orders for newbuilds continue to be made, causing some concern for overbuilding. Turn to our special offshore section, beginning on Page 12, to see forecasts from industry leaders. Cover photo of the Development Driller II courtesy of GlobalSantaFe Corp.

**DRILLING
CONTRACTOR**

CAPITAL WIRELINES



Service tax dispute roils Indian waters

By Brian T Petty, Senior Vice President-Government Affairs

NEW DELHI, India — IADC members working in India have been caught in an interpretive crossfire between the government and operators on whether and how taxes on drilling services are to be levied.

With the 2004 election of a new government came a change in Indian tax law that expanded its application to various categories of extractive and mining services. IADC believes that the law doesn't and shouldn't encompass oil and gas drilling services and that, in any case it does, then offshore operators are contractually obligated to cover the tax as a pass-through. Operators in India have agreed that the tax shouldn't apply and so has refused to reimburse drilling contractors for it.

IADC had hoped operators would join in petitioning the government for clarification, but they declined, forcing IADC to turn to the courts for a judicial resolution of the dispute. The case is currently proceeding in the Mumbai High Court, which has accepted IADC's writ of petition. This means the court is accepting responsibility for settling the dispute, including ruling on the meaning of the complex legislative language involved. The court could have dismissed IADC's petition as simply a contract dispute between operators and drilling contractors to be resolved in separate civil action. Further court action is expected in July.

TAX AMENDMENT PROPOSAL IN 2006 BUDGET

On another track, the government has proposed legislation in the 2006 Budget to amend the Service Tax with the intent of providing relief and clarity. Unfortunately, as it's currently written, the legislation could be subject to interpretation that leaves primarily foreign offshore contractors subject to the tax. IADC is petitioning the Ministry of Finance to amend the budget legislation to exempt all offshore contractors from the tax and restore everyone — regardless of nationality — to equal footing since they provide exactly the same services to operators offshore India.

IADC's letter to the the ministry pointed out that its membership includes both Indian and foreign contractors, and, accordingly for rendering drilling services in India, the legislation's impact would be as follows:

- **Indian companies:** The proposed law has no application, hence the services rendered by Indian companies to Indian customers don't give rise to the service tax.
- **Foreign companies with offices in India:** In theory, the proposed law should also have no application, since the service provider is rendering the services from the office in India. However, this would be open to interpretation.
- **Foreign companies with no office in India:** The proposed law clearly applies to these companies and, with it, the obligation to pay the service tax.

All of these companies render services in the onshore and offshore areas of India. Rendering taxable services onshore and/or in the territorial waters of India (12 Nautical Miles from the baseline) and/or in the designated areas of the Continental Shelf and the Exclusive Economic Zones of India is not under dispute. However, regarding the services that are being rendered in the offshore waters of India, the effect would lead to different treatment for the same service. In any case, the new law will be only prospective in effect. The accumulated disputed service tax liability that is the subject of the High Court deliberation wouldn't be affected.