

Indian Transfer Pricing Update: CBDT Amends Safe Harbour Rules

vide Notification No. 21/2025, dated March 25, 2025



Key Changes in Safe Harbour Rules as per the CBDT Notification

Executive Summary

SBC TP Update on the CBDT Amendments to Safe Harbour Rules vide Notification No. 21/2025 dated March 25, 2025.

1. The definition of core auto components under Rule 10TA has been expanded to encompass lithium-ion batteries for use in electric and hybrid electric vehicles.
2. The threshold limits under Rule 10TD for software development services, IT-enabled services (ITeS), Knowledge Process Outsourcing (KPO), Contract R&D in software development, and Contract R&D in generic pharmaceutical drugs have been increased from ₹200 crores to ₹300 crores.

The aforementioned amendments shall be applicable for the assessment years 2025-26 and 2026-27.

Summary of changes pre and post amendment

Before Amendment

1. Definition of core auto components

As per Rule 10TA, Clause (b) of the Income-tax Rules, 1962

- (i) engine and engine parts, including piston and piston rings, engine valves and parts cooling systems and parts and power train components;
- (ii) transmission and steering parts, including gears, wheels, steering systems, axles and clutches;
- (iii) suspension and braking parts, including brake and brake assemblies, brake linings, shock absorbers and leaf springs;

After Amendment

1. Definition of core auto components

As per Rule 10TA, Clause (b) of the Income-tax Rules, 1962

- (i) engine and engine parts, including piston and piston rings, engine valves and parts cooling systems and parts and power train components;
- (ii) transmission and steering parts, including gears, wheels, steering systems, axles and clutches;
- (iii) suspension and braking parts, including brake and brake assemblies, brake linings, shock absorbers and leaf springs;
- (iv) **lithium-ion batteries for electric/hybrid vehicles.**

Changes in Threshold Limits

Eligible International Transaction	Before Amendment	After Amendment
Provision of software development services	not less than 18 per cent, where the value of international transaction exceeds a sum of one hundred crore rupees but does not exceed a sum of two hundred crore rupees.	not less than 18 per cent, where the value of international transaction exceeds a sum of one hundred crore rupees but does not exceed a sum of three hundred crore rupees.
Provision of ITeS services		
Provision of KPO services	The value of international transaction does not exceed a sum of two hundred crore rupees.	The value of international transaction does not exceed a sum of three hundred crore rupees.
Provision of Contract R & D services wholly or partly relating to software development	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 24 per cent, where the value of the international transaction does not exceed a sum of two hundred crore rupees.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 24 per cent, where the value of the international transaction does not exceed a sum of three hundred crore rupees.
Provision of Contract R & D services wholly or partly relating to generic pharmaceutical drugs		



India's Transfer Pricing Safe Harbour Regime: An Overview

Overview of the Indian Safe Harbour Regime

- The Indian Safe Harbour Regime was established in response to escalating instances of transfer pricing audits and disputes. Introduced under the Finance (No.2) Act of 2009, effective from April 1, 2009, this regime was introduced vide Section 92CB of the Income Tax Act, 1961.
- Under section 92CB, the determination of an arm's length price, as defined by section 92C or Section 92CA, is required to adhere to safe harbour rules. These rules provide predefined acceptable ranges of profits or prices, enhancing certainty for transactions.
- To provide greater advantages to taxpayers, the Central Board of Direct Taxes (CBDT) broadened the scope of Safe Harbour Rules through Rule 10TD of the Income-tax Rules. This expansion aims to streamline compliance procedures, encourage timely approvals, and reduce complexities associated with transfer pricing.
- On March 25, 2025, CBDT issued a notification, extending the applicability of Safe Harbour Rules to the Assessment Year 2025-26 & 2026-27, which pertains to the Financial Year 2024-25 & FY 2025-26.
- The Indian Safe Harbour Regime offers a structured and predictable framework that promotes compliance, minimizes disputes, and fosters a more harmonious business environment, ultimately contributing to a more efficient and effective transfer pricing ecosystem.

Eligible Assessee

A person who has validly opted for safe harbour rules under Rule 10TE of the Income Tax Rules, 1962.

Eligible Transactions

These eligible transactions qualify for safe harbour treatment under Rule 10TB, providing a simplified and predictable transfer pricing framework.



The Rational Choice: Selecting the Safe Harbour Option

Advantages of Choosing the Safe Harbour Approach

Enhanced Certainty

By providing advance insight into the acceptable range of profits or prices that meet Safe Harbour criteria, transactions gain a heightened level of certainty, offering stakeholders a clearer financial landscape.

Conflict Mitigation

Safe Harbour serves as an effective dispute avoidance mechanism, significantly curbing the potential for conflicts between taxpayers and revenue authorities. This fosters a more harmonious business environment, particularly significant given the high incidence of Indian Transfer Pricing litigation.

Streamlined Approvals & Assessment

Safe Harbour Rules offer a structured mechanism for application and approvals procedures, facilitating a smoother and time-bound process. This stands in stark contrast to the prolonged timelines associated with Domestic Litigation or Advance Pricing Agreements (APAs).

Comparative Compliance

In contrast to the complexities involved in Advance Pricing Agreements (APAs) and the Domestic Transfer Pricing Litigation Route, Safe Harbour Rules present a more favorable choice in terms of TP/ALP rates/margins, timelines, and associated costs. This streamlined approach can alleviate compliance burdens.

Resource Efficiency

The adoption of Safe Harbour Rules translates into substantial savings in terms of time, costs, and efforts, especially in potential litigation scenarios. This strategic choice can lead to optimized resource allocation and more efficient business operations.

Stakeholder Confidence

Safe Harbour instills confidence in taxpayers through its predictable framework, enhancing investor confidence and fostering robust business growth.

Safeguarding Reputational Capital

Choosing the Safe Harbour route mitigates the risk of reputational damage that could arise from contentious transfer pricing disputes. A clean record in compliance can enhance a company's standing within its Group and among stakeholders.

Incentive for Voluntary Compliance

The transparent and predictable nature of Safe Harbour can incentivize voluntary compliance, enabling companies to proactively meet their transfer pricing obligations and contribute positively to the overall tax ecosystem.



Core Features of the Safe Harbour Rules in India

Safe Harbour Rules in India: Key Points for Taxpayers

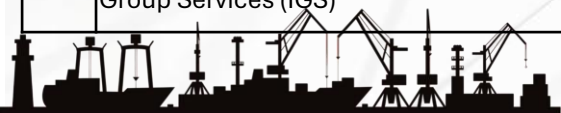
For those seeking to opt for safe harbour rules for AY 2025-26 & 2026-27 and who have undertaken in eligible international transactions, adherence to specific guidelines is imperative. Here's a concise breakdown of the crucial aspects:

Filing Requirement	Taxpayers opting for safe harbour need to file an income return and safe harbour application (Form No 3CEFA) to the Assessing Officer, both before the stipulated deadline i.e., 30 November 2025 for AY 2025-26 and 30 November 2026 for AY 2026-27 .
Compliance Commitment	Even if opting for safe harbour, taxpayers must fulfill the prescribed transfer pricing documentation and maintain/Form 3CEB filing compliances (Rule 10TD(5) of the Rules).
Geographical Limitations	Safe harbour doesn't apply to transactions with Associated Enterprises/Related Parties location in low or no tax countries .
Mutual Agreement Procedure (MAP)	If approved, the transfer price by the tax authorities for an eligible international transaction bars the assessee from invoking the Mutual Agreement Procedure in a double taxation avoidance agreement with a foreign entity.
Adjustment Constraints	When opting for safe harbour, comparability adjustments and prescribed variation/range benefits (tolerance band) aren't accessible (Rule 10TD(4) of the Rules).
Duration of Choice	The option exercised remains in effect for a period of one year .
Transaction Scope	Safe harbour applies solely to specified transactions , while TP scrutiny exposure remains open to other transactions not eligible under safe harbour.
Deemed Acceptance	If the Assessing Officer, Transfer Pricing Officer, or the Commissioner, as the case may be, does not make a reference or pass an order within the specified time , then the option for safe harbor exercised by the assessee shall be treated as valid .
Scope of definitions	The scope of Operating Revenue and Operating Expense to be used in the computation of the Operating Margin has been clearly defined in the Safe Harbour Rules.



Safe Harbour Rates

#	Eligible International Transaction	Threshold Limits	Safe Harbour Rates as per Rule 10TD
1	Provision of Software Development Services and Information Technology Enabled Services (ITeS)	Up to INR 100 crores	17%
		INR 100 crores to INR 300 crores	18%
2	Provision of Knowledge Process Outsourcing Services (KPO)	Up to INR 300 crores and employee cost to total cost ratio is:	
		< 40%	18%
		≥ 40% but < 60%	21%
		≥ 60%	24%
3	Provision of Contract Research and Development services wholly or partly relating to Generic Pharmaceutical Drugs	Up to INR 300 crores	24%
4	Provision of Specified Contract Research and Development Services wholly or partly relating to Software Development	Up to INR 300 crores	24%
5	Advancing of Intra-group Loans referred to in item (iv) of rule 10TC where the amount of loan is denominated in foreign currency.	Credit Rating of AE	Reference rate of the relevant foreign currency as on 30 September of relevant previous year plus
		a) aggregate sum of loan advanced to AEs as on March 31 of relevant previous year , does not exceed INR 250 crores	
		AAA, AA+, AA, AA-, A+, A, A- or its equivalent	150 bps
		BBB+, BBB, BBB- or its equivalent	300 bps
		BB+, BB, BB-, B+, B, B-, C+, C, C-, D or its equivalent or where credit rating of AE not available.	400 bps
		b) aggregate sum of loan advanced to AEs as on March 31 of relevant previous year, exceeds INR 250 crores	
		AAA, AA+, AA, AA-, A+, A, A- or its equivalent	150 bps
		BBB+, BBB, BBB- or its equivalent	300 bps
		BB+, BB, BB-, B+, B, B- or its equivalent	450 bps
		C+, C, C-, D or its equivalent or where credit rating of AE not available	600bps
6	Advancing of Intra-group Loans where the amount of loan is denominated in Indian Rupees (INR)	Credit rating of AE:	One-year marginal cost of funds lending rate of SBI as on 1st April of relevant previous year plus
		AAA to A or its equivalent	175 bps
		BBB-, BBB, BBB+ or Equivalent	325 bps
		BB to B or its equivalent	475 bps
		C to D or its equivalent	625 bps
		Credit rating of AE not available and the aggregate sum of loan advanced to AEs as on March 31, of relevant previous year, does not exceed INR 100 crores	425 bps
7	Provision of Corporate Guarantee	- Amount guaranteed does not exceed 100 crores <u>or</u> - Exceeds 100 crores, <u>and</u> the credit rating of the AE, done by an agency registered with the SEBI, is of the adequate to highest safety	1% of the amount guaranteed
8	Manufacture and Export of Core Auto Components	No threshold	Operating cost-plus 12%
9	Manufacture and Export of Non-core Auto Components	No threshold	Operating cost plus 8.5%
10	Receipt of Low Value-adding Intra-Group Services (IGS)	Total value of IGS does not exceed INR 10 crores.	The value of transactions cannot include margin of more than 5%



Safe Harbour Procedure



How can SBC assist you?

Navigating the Safe Harbour Application process doesn't have to be overwhelming. We're here to provide discreet and effective assistance every step of the way.

SBC support:

- We provide assistance in filing Form No. 3CEFA (Safe Harbour Application), ensuring a smooth process.
- Our experts evaluate your eligibility for Safe Harbour Rules (SHR) by undertaking functional analysis and review of inter-company transactions and underlying agreements to guide your decision-making.
- We conduct a comprehensive cost-benefit analysis to help you assess your options effectively.
- If needed, we calculate year-end transfer pricing adjustments to align with safe harbour rates.
- Our support extends to year-end compliance, including Form No. 3CEB and transfer pricing documentation.
- We offer representation support before tax authorities (AO & TPO) for safe harbour proceedings.

For TP assistance, reach us at + 91 9553111131 /+91 9491933365.



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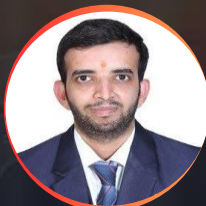
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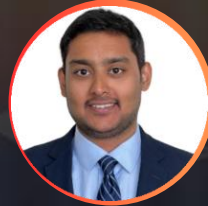
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