

# EY Tax Alert

## India Tax Administration amends the transfer pricing safe harbour rules

EY Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor.

### Executive summary

A “safe harbour” is defined in the Indian Income Tax Law (ITL) as circumstances in which the tax authorities shall accept the transfer price declared by the taxpayer. India’s Central Board of Direct Taxes (CBDT), the apex Indian tax administration body, first issued transfer pricing (TP) safe harbour rules (SHR) on 18 September 2013, applicable for five years from financial year (FY) 2012-13 to FY 2016-17.

Further the CBDT, vide yearly notifications extended the scope of SHR for various financial years upto FY 2023-24.

The CBDT issued a notification on 25 March 2025<sup>1</sup> amending the SHR as follows:

- i) Extended the application of provisions of SHR to FY 2024-25 and FY 2025-26
- ii) Expanded the definition of “core auto components” under Rule 10TA(b) to include lithium-ion batteries for use in electric or hybrid electric vehicles
- iii) Increasing the upper limit threshold of eligible international transactions for provision of certain services from INR 2 billion to INR 3 billion

<sup>1</sup> Notification No. 21/2025 dated 25 March 2025



## Main alert

- a) The SHR was earlier applicable for the FY 2019-20 to FY 2023-24. Now it has been extended for additional 2 years for FY 2024-25 and FY 2025-26, with certain modifications.
- b) The SHR has now expanded the definition of core auto component to include **lithium ion batteries for use in electric or hybrid electric vehicles**. The revised definition of core auto components under Rule 10TA (b) is as follows:

"core auto components" means,–

- (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 use in electric or hybrid electric vehicles.]***
- c) If SHR is applied for a single assessment year, the conditions as highlighted in Rule 10TE(2) will not be applicable.
- d) A summary of the safe harbour transfer price declared by an eligible taxpayer that shall be accepted by the tax authorities for FY 2024-25 and FY 2025-26 is as follows:

Eligible international transaction	Threshold limit value	Safe harbour margin	
Provision of software development services other than contract research and development (R&D) services, with insignificant risks	Up to INR 1 billion	17% or more on total operating costs	
	Above INR 1 billion up to INR 3 billion <sup>2</sup>	18% or more on total operating costs	
Provision of information technology enabled services, with insignificant risks	Up to INR 1 billion	17% or more on total operating costs	
	Above INR 1 billion up to INR 3 billion <sup>1</sup>	18% or more on total operating costs	
Provision of knowledge	Up to INR 3 billion <sup>1</sup>	Margin on total	Employee cost to

<sup>2</sup> Upper limit was INR 2 billion till FY 2023-24

Eligible international transaction	Threshold limit value	Safe harbour margin	
process outsourcing services, with insignificant risks		operating costs	operating costs
		24% or more	60% or more
		21% or more	40% or more but less than 60%
		18% or more	40% or less
Advancing of intra-group loan to a non-resident associated enterprise where the amount of loan is denominated in Indian Rupees (INR)	The Interest rate declared in relation to the international transaction is not less than the one-year marginal cost of funds lending rate of SBI as on 1 April of the relevant previous year plus,		
		Basis points	CRISIL <sup>1</sup> credit rating of associated enterprise (AE)
		175	between AAA to A or its equivalent
		325	BBB-, BBB or BBB+ or its equivalent
		475	between BB to B or its equivalent
		625	between C to D or its equivalent
Advancing of intra-group loan to a non-resident associated enterprise where the amount of loan is denominated in foreign currency	The interest rate declared in relation to the eligible international transaction is not less than the relevant reference rate of the relevant foreign currency as on 30 September of the relevant previous year plus,		
		Basis points	CRISIL credit rating of AE and loan value does not exceed INR 250 crores
		150	AAA, AA+, AA, AA-, A+, A, A- or its equivalent
		300	BBB-, BBB or BBB+ or its equivalent
		400	BB+, BB, BB-, B+, B, B-, C+, C, C-, D or equivalent or where the credit rating
			Not applicable

Eligible international transaction	Threshold limit value	Safe harbour margin	
		of the associated enterprise is not available	
	450	Not Applicable	BB+, BB, BB-, B+, B, B- or its equivalent
	600		C+, C, C-, D or equivalent or where the credit rating of the associated enterprise is not available
Providing corporate guarantee to its wholly owned subsidiary	No threshold	The commission or fee declared in relation to the international transaction is at the rate of 1% or more per annum on the amount guaranteed	
Provision of contract R&D services wholly or partly relating to software development, with insignificant risks	Up to INR 3 billion <sup>1</sup>	24% or more on total operating costs	
Provision of contract R&D services wholly or partly relating to generic pharmaceutical drugs, with insignificant risks	Up to INR 3 billion <sup>1</sup>	24% or more on total operating costs	
Manufacture and export of core auto components where 90% or more of total turnover during the relevant previous year is in the nature of original equipment manufacturer (OEM) sales	No threshold	12% or more on total operating costs	
Manufacture and export of non-core auto components where 90% or more of total turnover during the relevant	No threshold	8.5 % or more on total operating costs	

Eligible international transaction	Threshold limit value	Safe harbour margin
previous year is in the nature of original equipment manufacturer (OEM) sales		
Receipt of low value-adding intra-group services	Up to INR 100 million	Mark-up on costs not exceeding 5%. The cost allocation methodology should be certified by an accountant

## Comments

- The procedural aspects relating to compliance formalities for opting for the safe harbour, eligible taxpayers, verification by the tax officer, assessment procedure and implications where conditions are not met, remain same as before.
- Where the transfer price declared by the eligible taxpayer is accepted by the tax authorities, the taxpayer shall not be eligible to invoke the Mutual Agreement Procedure (MAP) under the relevant tax treaty.
- Further, taxpayers electing the safe harbour may not be able to claim any further adjustment to the price, either on account of comparability differences or the benefit of the range as prescribed under the ITL.
- Applying the arm's length principle can be a resource-intensive process. It may impose a heavy administrative burden on taxpayers and tax administrations that can be exacerbated by both complex rules and resulting compliance demands. These facts may lead to consideration of whether and when SHR would be appropriate in the TP area. Some of the difficulties that arise in applying the arm's length principle may be avoided by providing circumstances in which eligible taxpayers may elect to follow a simpler set of prescribed TP rules in connection with clearly and carefully defined transactions.

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