

Luca

One of the
RSM team

The background of the entire page is a photograph of a port at sunset. In the foreground, there are stacks of blue and red shipping containers. A red forklift is visible on the right side, lifting a container. The sky is a mix of orange, pink, and blue. A large, semi-transparent blue rectangle with a jagged, pixelated edge on its left side is positioned over the lower half of the image, containing the text.

Newsflash – CBDT amends and extends the applicability of Safe Harbour Rules

CBDT amends and extends the applicability of Safe Harbour Rules

17 April 2025

Background

On July 30, 2012, the Prime Minister of India approved constitution of a committee to review the Taxation of Development Centres and the IT Sector. The Committee published its draft rules for public comments on 14th August 2013 and made its recommendations to the CBDT. On 18th September 2013, the CBDT through a notification issued SHR vide Rules 10TA to 10TG of the Income Tax Rules, 1962 ('the Rules') and Form No. 3CEFA in relation to international transactions undertaken by the Indian entities. The SHR were initially applicable from AY 2013-14 to AY 2017-18. Subsequently, the SHR have been extended each year from AY 2017-18 till AY 2024-25. These provisions are optional, thereby providing flexibility to the taxpayers to declare transfer prices or maintain minimum operating margins.

Extension of the SHR

Amendments to the SHR

The scope of SHR has been expanded to also include the **lithium-ion batteries which are used in electric or hybrid electric vehicles** in the definition of core auto components.

Impact: *Taxpayer engaged in the business of manufacture (original equipment manufacturer) and export of lithium-ion batteries for electric or hybrid electric vehicles can now also opt for SHR.*

3.2 Increase in Threshold Value of Eligible International Transactions

Before amendment the maximum threshold value of the international transactions which are covered under SHR under Rule 10TD of the Rules was INR 200 Crore. Through the recent amendment in the said rules the threshold value has been increased and is tabulated below:



S. No.	Eligible international transaction	Existing Value of international transaction	Amended Value of international transaction
1	Provision of SDS ¹ / ITeS ²	INR 100 Crore to INR 200 Crore	INR 100 Crore to INR 300 Crore
2	Provision of KPO ³ Services	Up to INR 200 Crore	Up to INR 300 Crore
3	Provision of contract R&D ⁴ services (relating to software development/ generic drugs)	Up to INR 200 Crore	Up to INR 300 Crore

Impact: With an increase in the threshold of covered international transactions, more number of taxpayers can now avail benefit & opt for SHR.

3.3 Consideration of the Conditions

The fourth proviso to the sub-rule 2 of Rule 10TE of the Rules has been amended, wherein “**for one assessment year**” has been added. Accordingly, the conditions laid down in sub-rule (2) of Rule 10TE (which provides filing requirement for initial year and subsequent year) are not to be considered, if SHR is opted only for one assessment year.

3.4 Snapshot of the SHR Rates Applicable for AY 2025-26 and AY 2026-27

S. No.	Eligible International Transactions	Safe Harbour Rates	
1	Provision of SDS/ ITeS	OPM⁵ of 17%	Transaction value up to INR 100 Crore
		OPM of 18%	Transaction value between INR 100 Crore and INR 300 Crore
2	Provision of KPO Services	OPM of 24%	Employee Cost/ Operating Expense > 60%
		OPM of 21%	Employee Cost/ Operating Expense between 40% to 60%
		OPM of 18%	Employee Cost/ Operating Expense < 40%
3	Advancing of intra-group loans (in INR)	Interest rate is not less than the one-year SBI MCLR⁶ plus:	
		175 to 625 Basis points	Based on credit rating

¹ Software Development Services

² Information Technology Enabled Services

³ Knowledge Process Outsourcing

⁴ Research and Development

⁵ Operating Profit Margin

⁶ Marginal cost of funds lending rate of State Bank of India

S. No.	Eligible International Transactions	Safe Harbour Rates	
		425 Basis points	<ul style="list-style-type: none"> If credit rating is not available; and loan < INR 100 Crore.
4	Advancing of intra-group loans (in Foreign Currency)	Interest rate is not less than the reference rate plus:	
		150 to 400 Basis points	<ul style="list-style-type: none"> Based on credit rating; and loan < INR 250 Crore.
		150 to 600 Basis points	<ul style="list-style-type: none"> Based on credit rating; and loan > INR 250 Crore.
5	Corporate Guarantee	Commission or fee of 1% p.a.	
6	Provision of contract R&D services (relating to software development/generic drugs)	OPM of 24%	Transaction value up to INR 300 Crore
7	Manufacture and export of core auto components (<i>including lithium-ion batteries</i>)	OPM of 12%	
8	Manufacture and export of non-core auto components	OPM of 8.5%	
9	Receipt of low value-adding intragroup services	5%	Value of International transaction, including a mark-up < INR 10 crore

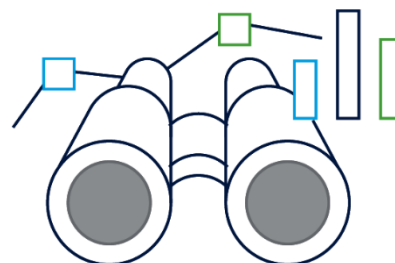
Compliance & Due Date of Filings

For exercising the option for SHR, the taxpayers are required to furnish Form No. 3CEFA to the Assessing Officer on or before the due date of furnishing the return of income for the relevant year (*i.e. 30th November 2025 for AY 2025-26*).

4.0 Our Comments

Increase in threshold (from INR 200 Crores to INR 300 Crores) is a welcome move for multinational companies to provide an option to avail SHR for more number of companies which will help them in attaining the tax certainty and reducing administrative cost in protracted litigations.

Further, the expansion of SHR scope to cover lithium-ion batteries of electric or hybrid electric vehicles in India for original equipment manufacturer is a positive move towards supporting the 'Make in India Initiative' and supporting the growing EV Sector. However, the operating profit margin of 12% appears relatively high for manufacturing concerns, especially for original equipment manufacturers, which typically operate on thinner margins.



Furthermore, the extension of SHR for two assessment years ensures greater certainty and predictability. This also aligns with aim of the government to reduce litigation and recent amendments like block TP assessment for three years.

Timely notification of SHR for AY 2025-26 and AY 2026-27 provides appropriate time to the taxpayers to evaluate the applicability of SHR with respect to the existing transfer pricing arrangements. Given the due date (i.e. *31st March 2025*) is already closed for open assessment proceedings in relation to past year, taxpayers may opt for SHR in subsequent notified years to avoid any similar litigation with respect to eligible transactions.

For further information please contact:

RSM Astute Consulting Pvt. Ltd.

8th Floor, Bakhtawar, 229, Nariman Point, Mumbai - 400021.

T: (91-22) 6108 5555/ 6121 4444

F: (91-22) 6108 5556/ 2287 5771

E: emails@rsmindia.in **W:** www.rsmindia.in

Offices: Mumbai, New Delhi - NCR, Chennai, Kolkata, Bengaluru, Navi Mumbai, Surat, Hyderabad, Ahmedabad, Pune, Gandhidham, Jaipur and Vijayanagar.



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