

Section 10TD in Income Tax Rules, 1962

10TD. Safe Harbour.

(1) Where an eligible assessee has entered into an eligible international transaction and the option exercised by the said assessee is not held to be invalid under rule 10TE, the transfer price declared by the assessee in respect of such transaction shall be accepted by the income-tax authorities, if it is in accordance with the circumstances as specified in sub-rule (2) [or, as the case may be, sub-rule (2A)] [Inserted by the Income-tax (Twelfth Amendment) Rules, 2017, w.r.e.f. 1-4-2017.]. (2) The circumstances referred to in sub-rule (1) in respect of the eligible international transaction specified in column (2) of the Table below shall be as specified in the corresponding entry in column (3) of the said Table:-

Sl. No.	Eligible International Transaction	Circumstances
(1)	(2)	(3)
1.	Provision of software development services referred to in item (i) of rule 10TC.	The operating profitmargin declared by the eligible assessee from the eligibleinternational transaction in relation to operating expenseincurred is -(i) not less than 20per cent, where the aggregate value of such transactions enteredinto during the previous year does not exceed a sum of fivehundred crore rupees; or(ii) not less than 22 per cent, where theaggregate value of such transactions entered into during theprevious year exceeds a sum of five hundred crore rupees.
2.	Provision of information technology enabledservices referred to in item (ii) of rule 10TC.	The operating profitmargin declared by the eligible assessee from the eligibleinternational transaction in relation to operating expense is -(i) not less than 20per cent, where the aggregate value of such transactions enteredinto during the previous year does not exceed a sum of fivehundred crore rupees; or(ii) not less than 22 per cent, where theaggregate value of such transactions entered into during theprevious year exceeds a sum of five hundred crore rupees.
3.	Provision of knowledge process outsourcingservices referred to in item (iii) of rule 10TC.	The operating profit margin declared by theeligible assessee from the eligible international transaction inrelation to operating expense is not less than 25 per cent.
4.	Advancing of intra-group loans referred to in item (iv) of rule 10TC	where the amount of loan does not exceed fifty crore rupees. The Interest rate declared in relation to theeligible international transaction is not less than the base rateof State Bank of India as on 30th June of the relevant previousyear plus 150 basis points.
5.	Advancing of intra-group	where the amount of loan exceeds fifty crorerupees. The

	loans referred to in item (iv) of rule 10TC	Interest rate declared in relation to the eligible international transaction is not less than the base rate of State Bank of India as on 30th June of the relevant previous year plus 300 basis points.
6.	Providing corporate guarantee referred to in sub-item (a) of item (v) of rule 10TC.	The commission or fee declared in relation to the eligible international transaction is at the rate not less than 2 per cent per annum on the amount guaranteed.
7.	Providing corporate guarantee referred to in sub-item (b) of item (v) of rule 10TC.	The commission or fee declared in relation to the eligible international transaction is at the rate not less than 1.75 per cent. per annum on the amount guaranteed.
8.	Provision of contract research and development services wholly or partly relating to software development referred to in item (vi) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 30 per cent.
9.	Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs referred to in item (vii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is not less than 29 per cent.
10.	Manufacture and export of core auto components referred to in item (viii) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 12 per cent.
11.	Manufacture and export of non-core auto components referred to in item (ix) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 8.5 per cent.

(2A) [The circumstances referred to in sub-rule (1) in respect of the eligible international transaction specified in column (2) of the Table below shall be as specified in the corresponding entry in column (3) of the said Table:-] [Sub-rule (2A) inserted by the Income-tax (Twelfth Amendment) Rules, 2017, w.r.e.f. 1-4-2017.] [Clause (a) inserted by the Income-tax (Twelfth Amendment) Rules, 2017, w.r.e.f. 1-4-2017.]

Sl. No.	Eligible International Transaction	Circumstances
(1)	(2)	(3)
1.	Provision of software development services referred to in item (i) of rule 10TC.	The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense incurred is - (i) not less than 17 per cent, where the value of international transaction does not exceed a sum of one hundred crore rupees; or (ii) not less than 18 per cent, where the value of international transaction exceeds a sum of one hundred crore rupees but does not

2. Provision of information technology enabled services referred to in item (ii) of rule 10TC.

exceed a sum of two hundred crore rupees.

The operating profitmargin declared by the eligible assessee from the eligibleinternational transaction in relation to operating expense is -(i)not less than 17per cent, where the aggregate value of such transactions enteredinto during the previous year does not exceed a sum of onehundred crore rupees; or(ii)not less than 18 per cent, where theaggregate value of such transactions entered into during theprevious year exceeds a sum of one hundred crore rupees but doesnot exceed a sum of two hundred crore rupees.

The value ofinternational transaction does not exceed a sum of two hundredcrore rupees and the operating profit margin declared by theeligible assessee from the eligible international transaction inrelation to operating expense is -(i)not less than 24per cent. and the Employee Cost in relation to the OperatingExpense is at least sixty per cent.(ii)not less than 21per cent. and the Employee Cost in relation to the OperatingExpense is forty per cent. or more but less than sixty per cent.or(iii)not less than 18 per cent and the EmployeeCost in relation to the Operating Expense does not exceed fortyper cent.
3. Provision of knowledge process outsourcingservices referred to in item (iii) of rule 10TC.

The interest ratedeclared in relation to the eligible international transaction isnot less than the one-year marginal cost of funds lending rate ofState Bank of India as on 1st April of the relevant previous yearplus, -(i) 175 basis points, where the associated enterprise has CRISIL credit rating betweenAAA to A or its equivalent;(ii) 325 basispoints, where the associated enterprise has CRISIL credit ratingof BBB-, BBB or BBB+ or its equivalent;(iii) 475 basispoints, where the associated enterprise has CRISIL credit ratingbetween BB to B or its equivalent;(iv) 625 basispoints, where the associated enterprise has CRISIL credit ratingbetween C to D or its equivalent; or(v) 425 basis points, where credit rating of theassociated enterprise is not available and the amount of loanadvanced to the associated enterprise including loans to allassociated enterprises in Indian Rupees does not exceed a sum ofone hundred crore rupees in the aggregate as on 31st March of therelevant previous year.
4. Advancing of intra-group loans referred to in item (iv) of rule 10TC where the amount of loan is denominated inIndian Rupees (INR).

The interest ratedeclared in relation to the eligible international transaction isnot less than the six-month London Inter-Bank Offer Rate of therelevant foreign currency as on 30th September of the relevantprevious year plus, -(i) 150 basis points, where the associated enterprise has CRISIL credit rating betweenAAA to A or its equivalent;(ii) 300 basispoints, where the associated enterprise has CRISIL credit ratingof BBB-, BBB or BBB+ or its equivalent;(iii) 450 basispoints, where the associated enterprise has CRISIL credit ratingbetween BB to B or its equivalent;(iv) 600 basispoints, where the associated enterprise has CRISIL credit ratingbetween C to D or
5. Advancing of intra-group loans referred to in item (iv) of rule 10TC where the amount of loan is denominated inforeign currency.

its equivalent; or(v) 400 basis points, where credit rating of the associated enterprise is not available and the amount of loan advanced to the associated enterprise including loans to all associated enterprises does not exceed a sum equivalent to one hundred crore Indian rupees in the aggregate as on 31st March of the relevant previous year.

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| <p>Providing corporate guarantee referred to in sub-item (a) or sub-item (b) of item (v) of rule 10TC.</p> | <p>The commission or fee declared in relation to the eligible international transaction is at the rate not less than one per cent per annum on the amount guaranteed.</p> |
| <p>7. Provision of contract research and development services wholly or partly relating to software development referred to in item (vi) of rule 10TC.</p> | <p>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 percent, where the value of the international transaction does not exceed a sum of two hundred crore rupees.</p> |
| <p>8. Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs referred to in item (vii) of rule 10TC.</p> | <p>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 percent, where the value of the international transaction does not exceed a sum of two hundred crore rupees.</p> |
| <p>9. Manufacture and export of core auto components referred to in item (viii) of rule 10TC.</p> | <p>The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 12 per cent.</p> |
| <p>10. Manufacture and export of non-core auto components referred to in item (ix) of rule 10TC.</p> | <p>The operating profit margin declared by the eligible assessee from the eligible international transaction in relation to operating expense is not less than 8.5 per cent.</p> |
| <p>11. Receipt of low value-adding intra-group services in item (x) of rule 10TC.</p> | <p>The entire value of the international transaction, including a mark-up not exceeding 5 per cent., does not exceed a sum of ten crore rupees: Provided that the method of cost pooling, the exclusion of shareholder costs and duplicate costs from the cost pool and the reasonableness of the allocation keys used for allocation of costs to the assessee by the overseas associated enterprise, is certified by an</p> |

accountant.

(3) The provisions of sub-rules (1) and (2) shall apply for the assessment year 2013-14 and four assessment years immediately following that assessment year. (3A) [The provisions of sub-rules (1) and (2A) shall apply for the assessment year 2017-18 and two assessment years immediately following that assessment year: Provided that where an eligible assessee is eligible to exercise option under sub-rule (2) or, as the case may be, sub-rule (2A) above, the assessee shall have the right to choose the option which is most beneficial to him.] [Sub-rule (3A) inserted by the Income-tax (Twelfth Amendment) Rules, 2017, w.r.e.f. 1-4-2017.] (4) No comparability adjustment and allowance under the second proviso to sub-section (2) of section 92C shall be made to the transfer price declared by the eligible assessee and accepted under sub-rules (1) and (2) [or, as the case may be, (2A)] [Inserted by the Income-tax (Twelfth Amendment) Rules, 2017, w.r.e.f. 1-4-2017.] above. (5) The provisions of sections 92D and 92E in respect of an international transaction shall apply irrespective of the fact that the assessee exercises his option for safe harbour in respect of such transaction.