



❑ Sec 92CB - Revised Safe Harbour Rules 2017
[2017] 85 taxmann.com 101 (Article)

Applicable from AY 2017-18 up to AY 2019-20 with Cap of 200 crores on transaction value and Introduction of 'receipt of low value-adding intra-group services' and Credit rating based interest rate prescribed as tabulated below:

International transaction	Old Safe harbour Rules	New Safe Harbour Rules
Provision of Software development services (IT services) and Information Technology Enabled services (ITeS), with insignificant risks	<p>Operating margin (OP/OC)-</p> <ul style="list-style-type: none"> ◆ Operating margin of not less than 20 per cent, where the aggregate value of transactions < INR 500 crores ◆ Operating margin of not less than 22 per cent, where the aggregate value of such transactions > INR 500 crores 	<p>Operating margin (OP/OC)-</p> <ul style="list-style-type: none"> ◆ Operating margin of not less than 17 per cent, where the aggregate value of transactions < INR 100 crores ◆ Operating margin of not less than 18 per cent, where the aggregate value of transactions > INR 100 crores but < INR 200 crores

International transaction	Old Safe harbour Rules	New Safe Harbour Rules
<p>Provision of KPO services, with insignificant risks</p>	<p>Operating margin (OP/OC) of not less than 25 per cent</p>	<p>The value of international transaction \leq INR 200 crores and –</p> <ul style="list-style-type: none"> ◆ Operating margin (OP/OC) of not less than 24 per cent, if the employee cost to operating expense is at least 60 per cent. ◆ Operating margin (OP/OC) of not less than 21 per cent, if the employee cost to operating expense is greater than 40 per cent or more but less than 60 per cent; ◆ Operating margin (OP/OC) of not less than 18 per cent, if the employee cost to operating expense does not exceed 40 per cent

International transaction	Old Safe harbour Rules	New Safe Harbour Rules
Provision of contract R&D services, with insignificant risks, wholly or partly relating to software development, generic pharmaceutical drugs	Operating margin (OP/OC)- ♦ not less than 29 per cent for pharmaceutical drugs ♦ not less than 30 per cent for software Development	The value of international transaction ≤ INR 200 crore and Operating margin (OP/OC) of not less than 24 per cent
In Provision of intra-group loan to Wholly Owned Subsidiary	Interest rate equal to or greater than the base rate of State Bank of India (SBI) as on 30th June of the relevant previous year: ♦ plus 150 basis points where the amount of loan is < INR 50 crores ♦ plus 300 basis points where amount of loan is > INR 50 crores	The threshold of INR 50 crores has been removed Different safe harbour rates have been prescribed for ♦ Loan denominated in Indian Rupees (INR) ♦ Loan denominated in foreign currency

❑ **Symphony Services India (P.) Ltd. vs. Assistant Commissioner of Income-tax, Circle-12(2) Bengaluru**

[2017] 83 taxmann.com 320 (Bengaluru – Trib)

For determining ALP of international transactions between associated enterprises, if comparable selected are operating since long and assessee in initial stages of operation, then considerable adjustments have to be made to operating expenses in order to give due leverage to contribution of income to fixed cost.

❑ **Oracle Solutions Services (India) (P.) Ltd. Vs. Deputy Commissioner of Income-tax, Circle 12 (2), Bengaluru**

[2017] 85 taxmann.com 166 (Bengaluru – Trib)

Turnover is not a relevant criteria in service industry, hence, a company could not have been excluded from list of comparables on ground of high turnover.