

The Safe Harbour Rule

SECTION 33A

Special provisions allowing eligible taxpayers to adopt a prescribed arm's length value for controlled transactions - with greater certainty and fewer transfer-pricing disputes.

Scope : Applicable to cross-border related party transactions



Contents

A structured walkthrough of Section 33A of the Income Tax Act, 2058.

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Overview

Who qualifies, and what electing the rule commits a taxpayer to — turnover threshold, conditions, and the five-year election.

02

Qualifying Conditions

Three independent pathways under Section 33A(3): IT service exports, intra-group loans, and low value-addition services.

03

Commitment & Implementation

The five-year lock-in period and the procedural framework to be prescribed by the Department.

OVERVIEW

At a glance

Section 33A introduces a statutory safe harbour regime that allows qualifying taxpayers to apply prescribed profit margins or interest rates to specified international transactions, thereby reducing transfer pricing compliance complexity and audit risk.

NPR 100 Crore

Maximum annual turnover to be eligible

1 of 3

Conditions to be satisfied to qualify

5 Years

Election applies for consecutive income years

1

Who qualifies

A person with an annual turnover up to NPR 100 crore, fulfilling the conditions in subsection (3), may set the transfer price of a controlled transaction at the arm's length value under the Safe Harbour Rule.

2

The filing commitment

A person opting in shall, while filing the income tax return, accept that transfer price as the arm's length value in the manner prescribed by the Department.

Qualifying conditions – Three Pathways

Section 33A(3) establishes three distinct qualifying pathways. A taxpayer must satisfy the conditions of at least one pathway to be eligible for the safe harbour election.

<div style="text-align: center; margin-bottom: 10px;">  </div> <div style="text-align: center; margin-bottom: 10px;"> A </div> <p>PATHWAY A - IT EXPORTS</p> <p style="font-size: 24px; font-weight: bold; color: #0070C0;">15%</p> <p>Minimum operating profit margin</p> <p>Applicable to taxpayers deriving income from the export of information technology services to associated enterprises. The 15% net profit margin is applied to qualifying revenue from IT-enabled services, software development, and technology consulting arrangements.</p>	<div style="text-align: center; margin-bottom: 10px;">  </div> <div style="text-align: center; margin-bottom: 10px;"> B </div> <p>PATHWAY B - INTRA-GROUP LOANS</p> <p style="font-size: 24px; font-weight: bold; color: #0070C0;">+200 - 400 bps</p> <p>Over the benchmark rate</p> <p>Applicable to cross-border financing arrangements between associated enterprises. The prescribed interest rate is set at a spread of 200 to 400 basis points as prescribed.</p>	<div style="text-align: center; margin-bottom: 10px;">  </div> <div style="text-align: center; margin-bottom: 10px;"> C </div> <p>PATHWAY C - LOW VALUE-ADD</p> <p style="font-size: 24px; font-weight: bold; color: #0070C0;">5%</p> <p>Maximum cost mark-up</p> <p>Applicable to intra-group services of a low value-adding nature, including routine administrative, back-office, and support functions. The 5% cost-plus margin is applied to the total cost base of the services rendered.</p>
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Commitment & Implementation

Modern safe harbour administration combines a binding commitment period with a structured implementation framework.

Five-year commitment



Under Section 33A(4), a taxpayer who elects the safe harbour regime is bound by a mandatory five-year commitment.

- Apply the prescribed rates to all qualifying transactions
- File annual returns reflecting the safe harbour treatment
- No early withdrawal unless approved due to material business change
- Non-compliance may trigger retroactive adjustments and penalties

Key Point

The regime is designed to be stable, but only when taxpayers maintain consistent compliance throughout the commitment period.

Implementation Framework



Section 33A(5) empowers the Inland Revenue Department to prescribe detailed procedures for administration of the regime.

- Eligibility verification and documentation standards
- Dispute resolution mechanisms
- Monitoring forthcoming administrative guidelines
- Engage proactively with the IRD transfer pricing unit

Taxpayers should monitor supplementary legislation or circulars, as the Department may issue clarifications or amend the prescribed rates over time.



Thank You

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