

*DIRECT TAX – STATUTORY AMENDMENTS*

**CA/CMA FINAL**

# **DIRECT TAX AMENDMENTS**

*SEP 2025/DEC 2025/JAN 2026*

**MCQs | Q&A | Charts**

*Finance (No. 2) Act, 2024*

*Circulars & Notifications up to*

*28.02.2025*



**CA MAYANK TRIVEDI**

***Your Concept Navigator***

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This PDF covers all Direct Tax Amendments for the Sept 2025 exam.

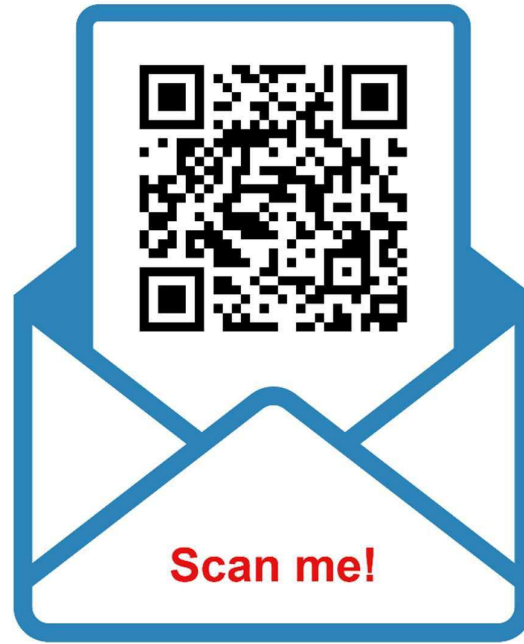
For complete and effective preparation, **also revise the May 2025 Amendment Notes**, which include several base changes from the earlier Finance Act.

✔ Related LMS charts and handwritten notes are attached at the end.

📺 A full video explanation of this PDF is available on my YouTube Channel – CA Mayank Trivedi

📁 Also, the May 2025 Notes + Full Charts are uploaded there for detailed revision.

📱 Scan the QR code below to directly watch the video and complete your coverage.



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**CHAPTER 1 - TRANSFER PRICING****Safe Harbour Rules for Income Deemed to Accrue in India [Section 9(1)(i)]**

- ❖ The CBDT has notified Safe Harbour Rules under Section 9(1)(i) read with Section 92CB for determination of arm's length price in case of income deemed to accrue or arise in India.
- ❖ These rules apply to foreign companies engaged in the business of diamond mining, which undertake sale of raw diamonds in notified special zones in India.

**Key Definitions as per Rule 10TI**

<u>Particular</u>	<u>Details</u>
<b>Eligible Assessee</b>	A foreign company engaged in the business of diamond mining and exercising the Safe Harbour option under Rule 10TIA
<b>Eligible Business</b>	Business of selling raw diamonds in a notified special zone as per Explanation 1(e) to Section 9(1)(i)
<b>Gross Receipts</b>	Total of amounts received or receivable on sale of raw diamonds by or on behalf of the eligible assessee
<b>Raw Diamonds</b>	Diamonds which are:- <ul style="list-style-type: none"> <li>• Uncut or unpolished</li> <li>• Unassorted or simply sawn/cleaved/bruted</li> <li>• Not conflict diamonds (as per Kimberley Process)</li> <li>• Accompanied by Kimberley Certificate</li> <li>• Covered under Tariff Heading 7102 of the Customs Tariff Act, 1975</li> </ul>
<b>Relevant Previous Year</b>	Previous year in which the Safe Harbour option is exercised

**Rule 10TIA – Circumstances for Safe Harbour Acceptance**

- ❖ Where profits from the eligible business are 4% or more of the gross receipts, the declared income shall be accepted by the Income Tax Authorities as per the Safe Harbour.
- ❖ On opting for Safe Harbour, the following consequences apply:
  - No further deductions under Sections 30 to 38 are allowable
  - WDV of assets will be adjusted as if depreciation is fully claimed
  - No set-off of:
    - Unabsorbed depreciation under Section 32(2)
    - Brought forward losses under Section 72
    - Intra-head or inter-head losses under Section 70 and 71
- ❖ Sections 92D and 92E continue to apply for international transactions even when Safe Harbour is opted.

**Rule 10TIB – Procedure for Exercising Option**

- ❖ The assessee must file Form 3CEFC with the Assessing Officer before filing the return of income under Section 139.
- ❖ If the option is not exercised, income shall be assessed under normal transfer pricing provisions.

- ❖ The Assessing Officer may declare the option invalid if:
  - Incorrect facts were furnished
  - Material facts were concealed
- ❖ Before invalidating, the assessee must be given an opportunity of being heard.
- ❖ If declared invalid, regular provisions of the Act apply.

### Rule 10TIC – Non-Applicability of MAP

- ❖ If the assessee exercises the Safe Harbour option, he is not entitled to invoke Mutual Agreement Procedure (MAP) under any tax treaty (Section 90/90A) in relation to that eligible business.

## **Limitation of interest deduction (Section 94B)**

### Exclusion of Certain Finance Companies from Section 94B

- ❖ Certain Finance Companies located in IFSC are now excluded from the applicability of Section 94B, subject to the following:

<u>Particular</u>	<u>Details</u>
<b>Eligible Entity</b>	Finance Company located in an International Financial Services Centre (IFSC)
<b>Definition</b>	Finance company defined in Regulation 2(1)(e) of the IFSC Authority (Finance Company) Regulations, 2021 and which satisfies below mentioned conditions and carries on prescribed activities.
<b>Pre-conditions</b>	<ol style="list-style-type: none"> <li>1. Must be a separately incorporated entity</li> <li>2. Must not accept public deposits from residents or non-residents</li> <li>3. Must not be registered as a Banking Unit</li> </ol>

### Permissible Activities under Rule 21ACA:

- ❖ Lending activities, including loans, guarantees, financial leases, securitization
- ❖ Factoring and forfaiting of receivables
- ❖ Global/Regional Corporate Treasury functions such as:
  - Borrowings and lending
  - Hedging of currency or commodity risks
  - Cash management, intra-group financing
  - Financial budgeting, structured credit, investments

### Additional Condition:

- ❖ Interest paid by such Finance Company (being the borrower) on debt issued by non-resident must be in foreign currency.

**CHAPTER 2 - COMPOUNDING**

- ❖ Compounding is a legal remedy where the accused/defaulters can avoid criminal prosecution by paying prescribed compounding charges and satisfying prescribed conditions.
- ❖ It offers an alternative to litigation and enables the taxpayer to resolve proceedings amicably with the tax authorities.
- ❖ Section 279(2) of the Income-tax Act, 1961 empowers designated authorities (Principal Chief Commissioner / Chief Commissioner / Principal DG / DG) to compound offences either before or after initiation of prosecution proceedings.
- ❖ Explanation to Section 279 clarifies that CBDT has authority under Section 119 to issue binding orders/instructions to Income-tax authorities in relation to compounding procedures.

**Scope & Conditions**

<b>Particular</b>	<b>Details</b>
<b>Effective Date</b>	17th October 2024
<b>Applicability</b>	Applicable to <ul style="list-style-type: none"> <li>• Compounding applications filed on or after 17.10.2024</li> <li>• Applications pending as on 17.10.2024</li> </ul>
<b>Applicability to Rejected Applications</b>	<ul style="list-style-type: none"> <li>• Reapplication allowed only for rejections based on curable defects or conviction only under prior guidelines.</li> <li>• Applications earlier rejected on merits are not eligible for reconsideration.</li> </ul>
<b>Time Limit</b>	<ul style="list-style-type: none"> <li>• Application may be filed at any stage after offence is committed</li> <li>• whether or not prosecution proceedings have begun</li> </ul>
<b>What is compounding?</b>	It is a mechanism to settle offence by paying a prescribed sum to escape prosecution under Chapter XXII of the Act.
<b>Are all offences under the Income-tax Act now compoundable?</b>	Yes. As per the revised guidelines, all offences are eligible for compounding.
<b>Do revised guidelines apply to pending applications?</b>	Yes. Applications pending as on 17.10.2024 will be governed by the revised guidelines.
<b>Is fresh application or fee required for pending applications?</b>	No. Applicants need not file fresh application or pay fresh fee if the application was already filed and pending as on the effective date.
<b>Can a fresh application be filed if earlier application was rejected due to curable defect?</b>	Yes. Applicants can file a new application if the earlier one was rejected only for curable defects under old guidelines.
<b>What constitutes a curable defect?</b>	Examples include: <ul style="list-style-type: none"> <li>• Incorrect format used</li> <li>• Incorrect AY/FY/section mentioned</li> <li>• Non-payment/short payment of compounding fee</li> <li>• Outstanding demand not cleared</li> </ul>

	<ul style="list-style-type: none"> <li>• Non-submission of undertaking to withdraw appeals</li> </ul>
Can cases earlier rejected on merits be reconsidered under revised guidelines?	No. Applications rejected on merits will not be reconsidered.
Can applications rejected earlier only due to conviction be refiled?	Yes. Where the application was rejected only due to conviction, reapplication is allowed under the revised guidelines.

**Filing of Compounding Application**

<u>Aspect</u>	<u>Details</u>
Who to file with	Jurisdictional PCCIT/CCIT/Principal DGIT/DGIT (Competent Authority)
Eligible scope	Application may be made for: <ul style="list-style-type: none"> <li>• One FY (for taxpayers) or quarter (for deductors), or</li> <li>• Multiple FYs/quarters via a Consolidated Application</li> </ul>
Rejected applications	A consolidated application may also be filed for multiple previously rejected applications, if rejected under earlier guidelines and not on merits
Withdrawal and refileing	<ul style="list-style-type: none"> <li>• Applicant may withdraw an earlier application and file a fresh one.</li> <li>• However, such application is treated as a subsequent application, attracting higher compounding rates</li> </ul>
Can a person file a compounding application for select offences?	<ul style="list-style-type: none"> <li>• Yes. Not mandatory to apply for all offences together.</li> <li>• Application cannot be rejected merely for excluding certain offences.</li> </ul>
Is there any cap on number of applications?	No fixed cap. However, the Competent Authority may reject on grounds of the applicant being a habitual offender.
Application Fees	<ul style="list-style-type: none"> <li>• <u>Single Application Fee</u> - ₹25,000 (non-refundable)</li> <li>• <u>Consolidated Application Fee</u> - ₹50,000 (non-refundable)</li> <li>• Adjustable only against compounding charges for same application (not across applications)</li> <li>• If application is rejected, fee is non-refundable and not adjustable against future applications</li> </ul>
Payment of Tax, Interest, Penalty	<ul style="list-style-type: none"> <li>• Before filing the application, the assessee must pay all outstanding dues</li> <li>• If, during verification, further demand arises - Applicant must clear such dues within 30 days of intimation (or within a period of up to 3 months as allowed by Competent Authority)</li> </ul>
Withdrawal of Appeal	Assessee must agree to withdraw: <ul style="list-style-type: none"> <li>• All appeals/petitions (including writs) related to the offence(s) being compounded</li> <li>• If appeal has mixed grounds, only grounds related to compounding offence need to be withdrawn</li> </ul>

<b>Withdrawal needed before filing?</b>	No. Only an undertaking is required at the time of application. Withdrawal must be done once compounding is allowed.
<b>Consolidation in TAN-based Defaults (for 276B/276BB)</b>	<ul style="list-style-type: none"> <li>• In case of defaults under Section 276B/276BB, application should cover all offences under the same TAN for the applicable period (quarter/year).</li> <li>• Total default shall be combined across all TDS/TCS statements for the same quarter.</li> </ul>

**Revival of Defective Compounding Applications**

- ❖ Applications not fulfilling prescribed conditions or containing curable defects, such as:
  - Non-payment of tax, interest, penalty, or related dues
  - Incorrect application format
  - Wrong section, FY, or AY mentioned
- ❖ Will be Treated as 'defective' and not processed further
- ❖ Applicant is allowed to cure defects within 1 month from the date of intimation
- ❖ Application will be returned to the applicant if not cured within time
- ❖ Any application filed later will be treated as a subsequent application and will attract fresh application charges

**Offences Requiring Prior Approval of CBDT Chairman for Compounding**

- ❖ Where the applicant has been convicted with imprisonment for 2 years or more, under the Income-tax Act
- ❖ Where the applicant has been convicted under any other law for 2 years or more, and such offence is related to an Income-tax offence
- ❖ Where the applicant is found, based on inputs from Central or State investigative agencies, to be involved in anti-national or terrorist activity. In such case, the Competent Authority must consult the agency and present findings while seeking CBDT approval
- ❖ Where the applicant is involved in tax evasion schemes, such as:
  - Use of shell or dummy entities
  - Creation of bogus invoices without actual business
  - Providing accommodation entries
  - Laundering of money
  - Or any similar arrangement as specified under section 277A
- ❖ Where the offence is related to:
  - The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
  - The Prohibition of Benami Property Transactions Act, 1988
- ❖ Where the offence is committed under section 275A and/or 275B
- ❖ Can offences involving ED, CBI or other agencies be compounded?
  - Yes, provided the applicant is not involved in anti-national/terrorist activity. If involved, CBDT Chairman's approval is mandatory.

**Authority Competent to Compound an Offence**

<u>Aspect</u>	<u>Details</u>
<b>Default Competent Authority</b>	The Jurisdictional Principal CCIT/CCIT/Principal DGIT/DGIT where the compounding application is filed
<b>Special situation (multiple jurisdictions for 276B/276BB offences)</b>	If offences relate to TDS/TCS defaults for both resident and non-resident payees, and jurisdictions differ, then: <ul style="list-style-type: none"> <li>• The authority where the application is filed becomes the Competent Authority</li> <li>• If multiple applications are filed in different jurisdictions, then the authority with the higher TDS default becomes the Competent Authority, and all others are transferred to them</li> </ul>
<b>TAN-based defaults across jurisdictions</b>	If offences are committed under multiple TANs, spread across jurisdictions, then the jurisdiction with highest quantum of default becomes the Competent Authority. All other applications are to be transferred to this authority

**Compounding Procedure**

<u>Stage/Aspect</u>	<u>Details</u>
<b>Initial Report</b>	Competent Authority obtains report from Assessing Officer/Deputy/Assistant Director through proper channel depending on the nature of the case.
<b>Rejection Timeline</b>	If application is not acceptable, a speaking order should be passed within 2 months from the end of the month in which application is received.
<b>Acceptance Intimation</b>	If application is acceptable, the applicant is informed of compounding charges and pending liabilities within 2 months from the end of receipt month.
<b>Payment Time Limit</b>	Compounding charges must be paid within 1 month from the end of the month of receipt of such intimation.
<b>Extension of Time for Payment</b>	<ul style="list-style-type: none"> <li>• Up to 6 months: Competent Authority may allow.</li> <li>• 6–12 months: Approval from Principal CCIT required.</li> <li>• 12–24 months: Approval from Chairman CBDT or authorized Member.</li> <li>• No extension beyond 24 months - However, a fresh application (as subsequent application) may be filed for the same particulars.</li> </ul>
<b>Non-payment Consequence</b>	If the compounding charges are not paid within the allowed/extended time, application will be rejected and prosecution will be initiated (if not already).
<b>Court Notification</b>	In case of ongoing prosecution, acceptance/rejection order to be notified to the Court through Prosecution Counsel.
<b>Order Timeline Post-Payment</b>	Compounding order to be passed within 1 month from the end of the in which payment was made.
<b>Pending Penalty Proceedings</b>	If penalty proceedings related to the offence are still pending, they must be concluded first and any resulting demand must be recovered before issuing the compounding order.
<b>Clarification in Order</b>	Order must state: "This compounding order is intended to resolve the offence under section 279(2) of the Act and should not be construed as an admission of

	the offence(s) by the applicant."
<b>Timelines Nature</b>	Prescribed timelines are administrative and not mandatory limitation periods.
<b>How will the 24-month period be calculated for applications pending on 17.10.2024?</b>	For pending applications, the 24-month limit shall be counted from October 2024 (i.e., from the end of the month when revised guidelines were issued). Extension approval shall be required as per revised limits.
<b>Interest on Extension</b>	No interest or additional charges apply for the extension.
<b>Old Cases Charge Adjustment</b>	<ul style="list-style-type: none"> <li>• No additional compounding charges under old rules.</li> <li>• Charges to be determined as per revised guidelines.</li> </ul>

**Compounding Charges**

<u>Particulars</u>	<u>Explanation</u>
<b>Meaning of "Tax" for Compounding</b>	<ul style="list-style-type: none"> <li>• For calculating compounding charges, "tax" includes basic tax + surcharge + cess (by whatever name called).</li> <li>• However, interest is excluded from this amount.</li> </ul>
<b>First Application Treatment</b>	<ul style="list-style-type: none"> <li>• The first-ever application or consolidated application filed by a person will be treated as first compounding.</li> <li>• Charges will be computed afresh for each offence disclosed in the application.</li> </ul>
<b>Treatment of Prior Applications under Old Guidelines</b>	All applications filed before 17.10.2024, whether compounded, pending, or rejected, will collectively be considered as the "first" application under the new guidelines. This avoids retrospective penalty escalation.
<b>Subsequent Applications</b>	<ul style="list-style-type: none"> <li>• Any compounding application filed after the first one is treated as a subsequent application.</li> <li>• Compounding charge for same offence will increase as follows:                             <ul style="list-style-type: none"> <li>• 2nd Application – 1.2× Base Rate</li> <li>• 3rd Application – 1.4× Base Rate</li> <li>• 4th Application – 1.6× and so on.</li> </ul> </li> </ul>
<b>Mix of Old and New Offences in Same Application</b>	If a subsequent application includes: <ul style="list-style-type: none"> <li>• Old offences (same type as earlier) - Higher multiplier rates will apply.</li> <li>• New offences (not previously disclosed) - Charged at base rate.</li> </ul>
<b>Applications Filed After 12 Months from Complaint Filing</b>	If compounding application is filed after 12 months from the end of the month in which prosecution complaint was filed, the compounding charge will be increased by 50%.
<b>Date of Application in Carried Forward/Pending Cases</b>	If application was already pending on 17.10.2024, then: <ul style="list-style-type: none"> <li>• New guidelines apply, but</li> <li>• Date of original filing will be considered for rate calculation.</li> </ul>

<b>Partial Payment in Earlier Withdrawn Application</b>	If partial compounding charges were paid for any year in a previously withdrawn application, such payment can only be adjusted for the same year and same offence in the new consolidated application. No cross-adjustment allowed.
<b>Example</b>	<p>A person filed compounding applications under earlier guidelines:</p> <ul style="list-style-type: none"> <li>• Two of which were rejected on account of curable defects</li> <li>• two were compounded</li> <li>• three are pending as on issuance of this guideline</li> </ul> <p>In this case:</p> <ul style="list-style-type: none"> <li>• No action is pending for the applications which have been compounded.</li> <li>• The pending 3 will be treated as "first" application</li> <li>• The fresh consolidated application for rejected applications will be considered as second application (1.2× rates)</li> </ul>
<b>Repeat Offence Rule</b>	If a subsequent application includes an offence which has also been included in earlier application(s), it shall be liable for higher rate i.e. 1.2 times, 1.4 times, 1.6 times and so on; irrespective of the fact that the offence and year of the offence are same in subsequent application and earlier application was rejected or pending or even compounded.
<b>Filing After Prosecution Launch</b>	Compounding is allowed even after prosecution is launched: <ul style="list-style-type: none"> <li>• Filed within 12 months - Normal rate</li> <li>• Filed after 12 months - 50% surcharge over computed amount.</li> </ul>
<b>FAQ Clarity – No Interest or Extra Charges on Extensions</b>	Extensions for payment timelines (up to 24 months) do not attract any interest or extra penalty. However, beyond 24 months, application will be rejected. <i>CA Mayank Trivedi</i>
<b>Special Note on Pending Applications</b>	For pending applications (as on 17.10.2024): <ul style="list-style-type: none"> <li>• Will be treated as first application.</li> <li>• Charges re-determined under revised rules.</li> <li>• Earlier higher rates from old guidelines will not apply.</li> </ul>

**Co-accused & Abettor (Company/HUF Cases) – Section 278B & 278C**

<u>Particulars</u>	<u>Explanation</u>
<b>Applicability</b>	Applies where offence is committed by a Company (278B) or HUF (278C). Both main accused (company/HUF) and co-accused (e.g., directors, Karta) may apply separately or conjointly for compounding.
<b>Effect of Payment</b>	Once compounding charges are paid by any of the applicants (main/co-accused), the offence is deemed compounded for all related persons (main + co-accused).
<b>IBC Implication (Sec. 32A)</b>	In case liability of a company for an offence committed prior to the commencement of the corporate insolvency resolution process ceases due to section 32A of IBC, prosecution can still continue against co-accused, who can

	independently apply and pay compounding charges.
<b>If earlier rejected due to missing party</b>	If earlier application was rejected because main/co-accused didn't apply, they may now reapply, and it will be treated as subsequent application (except if earlier rejected on merits).
<b>Pending Application Treatment</b>	All pending applications under old guidelines (filed before 17.10.2024) are treated as first application. No fresh filing needed.
<b>Separate Fee for Co-accused?</b>	No separate compounding charge for co-accused. Only one charge per offence, irrespective of who pays.
<b>Who Can File?</b>	Only main accused or co-accused can file. Third party (e.g., unrelated person) cannot file compounding application.
<b>Appeal Withdrawal Undertaking</b>	Co-accused cannot furnish appeal withdrawal undertaking on behalf of main accused. It must be given by main accused only.
<b>In Whose Name Will Order Be Passed?</b>	Compounding order under section 279(2) shall include names of all applicants <ul style="list-style-type: none"> <li>• If co-accused applies then order will include name of main accused.</li> <li>• In a case where main accused has applied and co-accused has been identified then both names included.</li> </ul>

**Example 1 : Treatment of Multiple Compounding Applications**

<u>Application Date</u>	<u>Status</u>	<u>Offence (FY)</u>	<u>Sequence of Application</u>	<u>Offence included in Earlier Application?</u>	<u>Rate</u>
15/01/2021	Compounded	276B (2012-13)	NA	NA	NA
17/10/2022	Compounded	276C(1) (2018-19)	NA	NA	NA
18/08/2023	Rejected	276B (2013-14)	NA	NA	NA
17/09/2024	Pending	276D (2019-20)	First (No fresh application required)	NA	Normal rate
01/11/2024	Single application (for earlier application rejected)	276B (2013-14)	Second	Yes, in application dated 15/01/2021 and 18/08/2023 (considered as 2nd time)*	1.2x normal rate
18/12/2024	Consolidated application	276B (2017-18)	Third	Yes, in applications dated 15/01/2021, 18/08/2023, and 01/11/2024 (3rd time)#	1.4x normal rate
—	—	276C(1) (2019-20)	—	Yes, in application dated 17/10/2022 (2nd time)	1.2x normal rate
—	—	275A (2023-24)	—	No, first time applied for (1st time)	Normal rate

\* The applicant has opted for compounding for section 276B offence for the third time in the third application, and accordingly compounding charges at 1.4 times of the normal rate should apply. However, since both earlier applications were filed under previous guidelines, they will be considered collectively as a "first" application. Hence, the offences under the first two are clubbed for calculating compounding charges.

# The applicant has opted for compounding section 276B offence for the fourth time in the consolidated application. So compounding charges are at 1.6 times of normal rate. However, first two applications will again be treated as a single "first" application. The application dated 01.11.2024 is then the "second", and the consolidated application of 18.12.2024 becomes the "third". Therefore, offences under these three are clubbed together for compounding rate purposes.

**Example 2 : Impact of Time & Application Status on Compounding Charges**

An assessee made TDS default of ₹10,00,000 for 3 months during F.Y. 2019-20. Prosecution under section 276B was launched on 01/04/2022.

Assume: Normal compounding charges = ₹45,000

Scenario	Case	Date of Application	Time Elapsed	Rate	Compounding Charges
Scenario 1 (No earlier application rejected)	Case-1	12/10/2022(Pending as on 17/10/2024)	Less than 12 months	Normal compounding charges	₹45,000
	Case-2	31/10/2024 (Filed under revised guidelines)	More than 12 months	Increase by 50% of normal compounding charges	₹67,500(1.5 × ₹45,000)
Scenario 2 (First application rejected, revised application filed)	Case-3	12/10/2022(Rejected)	Less than 12 months	NA (Application rejected)	NA
		31/10/2024 (Filed under revised guidelines)	More than 12 months	1.2× normal charges + 50% increase	₹81,000(1.5 × 1.2 × ₹45,000)

**Compounding of Offences vs. Immunity under Section 278AB**

Note: Compounding under Section 279(2) and Immunity under Section 278AB are two distinct remedies. While compounding settles existing offences, immunity prevents future prosecution for disclosed income during search/survey.

Particulars	Compounding of Offences (Sec 279(2))	Immunity from Prosecution (Sec 278AB)
Applicable When	Before or after institution of prosecution	Only before prosecution is instituted
Authority Involved	Principal Chief Commissioner / Chief Commissioner	Principal Commissioner / Commissioner

Nature of Relief	Offence is compounded and resolved	Immunity is granted from prosecution
Admission of Guilt	Not construed as admission of offence	Requires full & true disclosure during search/survey
Eligibility Conditions	<ul style="list-style-type: none"> <li>• Application made under guidelines</li> <li>• Payment of compounding charges</li> <li>• Withdrawal of appeals if required</li> </ul>	<ul style="list-style-type: none"> <li>• Application filed before prosecution</li> <li>• Full cooperation during search/survey</li> <li>• Full disclosure of income/assets</li> </ul>
Resulting Outcome	No further proceedings for the compounded offence	Prosecution not initiated and immunity granted
Legal Basis	Section 279(2) of the Income-tax Act, 1961	Section 278AB of the Income-tax Act, 1961
Common Misconception	Often misunderstood as admission of guilt	Often confused with compounding though distinct

### CHAPTER 3 - NON-RESIDENT TAXATION

#### Sec 44BBC- Cruise Ship

Section 44BBC
Business of operation of cruise ships
Income of non-resident shall be chargeable under the head PGBP at the rate of 20% of Amount#
Amount - Amount#[44BBC]
<ul style="list-style-type: none"> <li>• Amt paid or payable to the assessee or to any person on his behalf on account of the carriage of passengers; and</li> <li>• Amt received or deemed to be received by or on behalf of the assessee on account of the carriage of passengers.</li> </ul>

#### Conditions to be satisfied for Sec 44BBC (Rule 6GB) – NN 09/2025

The non-resident assessee must satisfy all the following conditions:

Condition	Description
The assessee must operate a passenger ship having	<ul style="list-style-type: none"> <li>• Carrying capacity of more than 200 passengers, OR</li> <li>• Length of 75 meters or more</li> <li>• AND used for leisure and recreational purposes with proper dining and cabin facilities</li> </ul>
The ship must operate on a scheduled voyage or shore excursion	<ul style="list-style-type: none"> <li>• Must touch at least two Indian sea ports, OR</li> <li>• Touch the same port of India twice in a voyage</li> </ul>
The ship must be used primarily for carrying passengers,	Not for cargo transportation
The ship must operate as per procedure/guidelines issued by:	<ul style="list-style-type: none"> <li>• Ministry of Tourism, or</li> <li>• Ministry of Shipping</li> </ul>

**Liaison office**

- ❖ A non-resident having a liaison office in India, which is established after obtaining approval from the Reserve Bank of India, is required to submit a statement in Form 49C u/s 285. This statement must report the details of activities carried out by the liaison office in India during the relevant FY.
- ❖ As per the amended Rule 114DA, notified via Notification No. 14/2025 dated 07.02.2025, the due date for furnishing Form 49C has been revised. The non-resident must now submit Form 49C within 8 months from the end of the financial year, to the jurisdictional Assessing Officer.

**CHAPTER 4 - TDS & TCS****TDS Provision Related to IFSC Units****Exemption from TDS on Specified Payments to IFSC Units**

- ❖ Under Section 197A(1F) read with Section 80LA(1A)/(2), no TDS shall be deducted on certain payments made to Units located in IFSC (International Financial Services Centre) by any 'payer', subject to compliance.
- ❖ Covered Payees and Nature of Receipts:

<u>IFSC Unit</u>	<u>Nature of Receipt</u>	<u>Section</u>
Banking Unit	Interest on ECB/Loans	195
	Professional fees	194J
	Referral/Brokerage/Commission (factoring/forfeiting)	194H
IFSC Insurance Intermediary	Insurance commission	194D
Finance Company / Finance Unit	Interest (ECB/Loans)	195 / 194A
	Dividend	194
	Commission income	194H
Fund Management Entity	Professional fee	194J
Broker Dealer	Dividend	194
Investment Advisor	Advisory fee	194J
Registered Distributor	Distribution/Commission fee	194H
Custodian	Professional fee	194J
	Commission	194H
Credit Rating Agency	Rating fee	194J
Investment Banker	Investment banker fee	194J
Debenture Trustee	Trusteeship fee	194J
ITFS Entity	Commission income	194H
FinTech Entity	Technical/Professional/Commission	194J / 194H

❖ Conditions:

<u>Condition</u>	<u>Explanation</u>
<b>Declaration by Payee</b>	Must furnish statement-cum-declaration mentioning the 10 consecutive A.Y.s for which Section 80LA(1A)/(2) deduction is opted
<b>Annual Renewal</b>	Declaration must be furnished and verified every year for those 10 A.Y.s
<b>No TDS after Declaration</b>	Payer can stop TDS only after receiving the declaration
<b>Reporting in TDS Return</b>	Payer must report all exempted payments in the quarterly TDS return
<b>Validity</b>	Exemption applies only during the declared 10 years. For any other year, TDS applies

**Exemption from TDS on Interest by IFSC Banking Units (IBUs)**

<u>Provision</u>	<u>Details</u>
<b>Section 197A(1D)</b>	No TDS by Offshore Banking Units / IBUs on: <ul style="list-style-type: none"> <li>• Deposits made by NR/NOR after 01.04.2005</li> <li>• Borrowings from NR/NOR after 01.04.2005</li> </ul>
<b>Section 10(15)(viii)</b>	Such interest income is exempt in the hands of the NR/NOR recipient
<b>Definition of IBU</b>	Branch of Indian/foreign bank located in IFSC, registered as per SEZ Act and RBI Scheme (01.04.2015)
<b>Reason</b>	IBUs qualify as Offshore Banking Units under Section 2(u) of the SEZ Act

**TDS Section 194Q & TCS u/s 206C(1H)**

- ❖ No TDS under Section 194Q (TDS on purchase of goods) when:
  - Buyer purchases goods from a Unit in IFSC, and
  - IFSC Seller furnishes the 10-year declaration u/s 80LA(1A)/(2)
  - Buyer must - Disclose exempted payments in TDS return
- ❖ Section 206C(1H) - IFSC Unit shall not be treated as 'buyer', hence no TCS to be collected from them
  - IFSC buyer must submit statement-cum-declaration for 10 A.Y.s under Section 80LA(1A)/(2)
  - Seller must receive and verify declaration annually
  - Must report exempted receipts in TCS return (Form 27EQ)

**Section 194N**

<b>194N</b>	<b>Cash withdrawals</b>	<ul style="list-style-type: none"> <li>• &gt; ₹ 3 crore if the recipient is a cooperative society</li> <li>• &gt; ₹ 1 crore in case of others</li> </ul>	-	<ul style="list-style-type: none"> <li>➤ Deductor                             <ul style="list-style-type: none"> <li>• Bank</li> <li>• Post Office</li> <li>• Co.OP Bank</li> </ul> </li> <li>➤ At the time of payment</li> </ul>
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Rate

<u>Others</u>	<u>If payee has not filed return for all 3 preceding PY's for which due date of ROI already expired before starting of current PY</u>
2% of such sum exceeding ₹ 1/3 Crore	<ul style="list-style-type: none"> <li>➤ 2% of such sum &gt; ₹ 20 Lakhs but ≤ ₹ 1/3 Crore</li> <li>➤ 5% of such sum exceeding ₹ 1/3 Crore</li> </ul> <p><u>For Exam Purpose PY 20-21, PY 21-22 &amp; PY 22-23</u></p>

Non-Applicability

If Payee is (Jo withdraw kr rha ha wo)

1. Government
2. Bank, Co.op Bank, PO
3. Cash Replenishment Agencies (CRA's) and franchise agents of White Label ATM operator
4. Commission agent or trader, operating under Agriculture Produce Market Committee (APMC), and registered under any law relating to Agriculture Produce Market of the concerned State
5. Full-Fledged Money Changer (FFMC) - purchase of foreign currency from foreign tourists or non-residents visiting India or from resident Indians on their return to India, in cash
6. White label ATM operator
7. RBI Notified money Changer.
8. **Foreign Representations duly approved by the Ministry of External Affairs who are exempt from paying taxes in India as per Vienna Convention and UN Privileges & Immunities Act**
  - Foreign Embassies
  - UN Agencies
  - Diplomatic Missions
  - International Organisations
  - Offices of Honorary Consuls

**Section 197A**

- ❖ No tax is required to be deducted on the payments received by
  - the Credit Guarantee Fund Trust for Micro and Small Enterprises u/s 10(46B) or
  - the National Credit Guarantee Trustee Company Limited, being a company established and wholly financed by the Central Government for the purposes of operating credit guarantee funds established and wholly financed by the Central Government u/s 10(46B)(i) or
  - a credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited u/s 10(46B)(ii).

# Safe Harbor Rule

# Applicability → Rule 10 TI

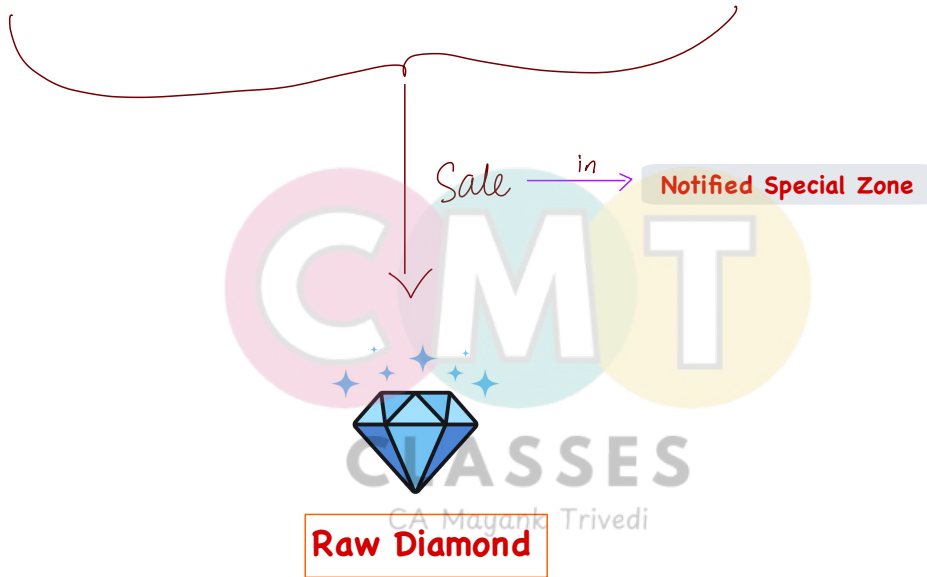


Foreign Co.

Engaged in →



Mining Diamond



- **Uncut/unpolished**
- **Not conflict diamonds**
- **Have Kimberley Certificate**
- **Under Tariff Heading 7102**



Opt  
 Form 3CEFC  
 (Before ITR)  
 [Rule 10TIB]



If declared profit from eligible business  $\geq$  4% of Gross Receipts, then  
 (Rule 10TIA)

Consequences of Opting Safe Harbour – Rule 10TIA(3)

Provision	Effect on Taxpayer
Sections 30 to 38	No further deduction allowed; deemed to have been fully allowed already
Depreciation	WDV of assets deemed adjusted as if full depreciation claimed
Section 32(2)	No set-off of unabsorbed depreciation allowed
Section 72(1)	No set-off of brought forward business losses allowed
Sections 70(1) and 71(1)/(2)	No intra-head or inter-head loss set-off allowed
Section 92D and 92E	Still applicable; taxpayer must maintain documentation and file accountant's report for international transactions

Declared TP will be accepted  
 (Rule 10TIA)



# **Rule 10TIB**

AO may declare option invalid if:

- Wrong or false information given
- Material facts concealed

But opportunity of hearing must be given before declaring invalid.

# **No MAP Allowed (Rule 10TIC)**

If Safe Harbour is opted:

- You cannot invoke Mutual Agreement Procedure (MAP) under tax treaties (Sec 90/90A) (DTAA)
- Applicable only to the eligible business (i.e., raw diamond sales)

# MCA 1/10

MT Inc., a foreign diamond mining company, sold raw diamonds worth ₹120 crores during FY 2024-25 in a notified special zone in Mumbai.

- The diamonds were uncut, unpolished, covered under Tariff Heading 7102, and accompanied by Kimberley Process Certificate.
- MT Inc. declared a net profit of ₹5.4 crores from the business in India.
- The company had:
  - ₹1.2 crores of brought forward business loss (AY 2023-24)
  - ₹0.8 crores of unabsorbed depreciation
- Filed Form 3CEFC on 25 Sept 2025
- Entered into one international transaction with its group entity during the year.
- No MAP invoked by the assessee.





**Q1. What is the profit percentage declared by MT Inc. and does it qualify under Safe Harbour?**

- a. 4.0% – Not eligible**
- b. 4.5% – Eligible**
- c. 5.4% – Eligible**
- d. 6.0% – Not eligible**

**Q2. Based on Rule 10TIA(3), which of the following statements is correct after MT Inc. opts for Safe Harbour?**

- a. MT Inc. can set off both unabsorbed depreciation and brought forward business losses**
- b. MT Inc. cannot claim any further deduction under Sections 30 to 38**
- c. WDV of assets will be carried forward without adjustment**
- d. MT Inc. is not required to maintain TP documentation under any circumstance**

**Q3. After opting for Safe Harbour, can MT Inc. invoke Mutual Agreement Procedure (MAP) under a tax treaty for this business?**

- a. Yes, since it is a foreign company**
- b. Yes, only if the Assessing Officer allows**
- c. No, Rule 10TIC restricts invocation of MAP for such business**
- d. MAP is automatic and applies regardless of Safe Harbour**

**Q4. Since MT Inc. entered into an international transaction, which of the following applies?**

- a. Sections 92D and 92E are not applicable due to Safe Harbour**
- b. MT Inc. must maintain documentation under Section 92D but not file Form 3CEB**
- c. MT Inc. must comply with both Sections 92D and 92E**
- d. No transfer pricing documentation is required if Safe Harbour is opted**

**Q5. What happens to the WDV of assets used in the eligible business?**

- a. WDV remains unchanged since no depreciation was claimed**
- b. WDV is recalculated as if full depreciation was allowed**
- c. WDV is reduced only by partial depreciation**
- d. WDV is written off completely**

## Compounding



- Compounding is a legal shortcut to avoid criminal prosecution by paying a compounding fee.
- Instead of going to court, you settle the offence with the department.



### Section 279 - CBDT Revised Guideline Issued - W.e.f 17/10/2024

- All Offences under Income Tax are now Compoundable
- Applicable to new application + applicable to all pending applications as on 17/10/24 - **The applicants whose applications were pending on 17.10.2024 are not required to file a fresh application or pay any fresh application fees.**
- Before application pay all taxes + penalty + Interest and also withdraw from related appeals
- **Fees per application** - ₹ 25,000 (Single) or ₹ 50,000 (Consolidated) - **Non Refundable but adjustable against compounding charges**

Can be filed for multiple F.Y/Qtr

- There is no restriction on the number of compounding applications a person can file. However, the Competent Authority may reject the application if the applicant is found to be a habitual offender.

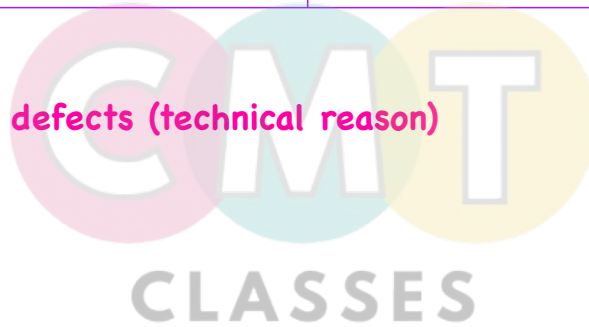
**APPLY**



**2 Reason**

**Rejected due to Curable defects (technical reason)**

**Rejected on merit**



**Reapplication Allowed**



**No Refiling**



**Lekin**

Ab Charges Extra Lagega



paisa hi paisa hoga

1st application	Normal rate	4th → 1.6x
2nd application	1.2x	5th → 1.8x .....
3rd application	1.4x	
After 12 months from prosecution launch	1.5x surcharge on computed charge	

- Compounding charges means **Tax , Cess and Surcharges** - Don't include Interest
- Computed for **each offence** disclosed in the application (Section wise dekhna hai)
- All pending applications shall be treated as first application
- Where an application for an offence was either compounded or rejected (other than on merits) under the earlier guidelines (before 17.10.2024), and a fresh application for the same offence under the same section is filed under the revised guidelines (on or after 17.10.2024), all such prior applications shall be collectively treated as the first application for the purpose of computing compounding charges.
- If compounding application is filed **after 12 months** from the end of the month in which prosecution was filed, **charges increase by 50%**.

- Partial
  - 1) Same year + Same offence + Specified
  - 2) consolidated ~~APP~~  
APP



**Company**

*main-accused*



**Director**

*Co-accused*



- co-accused may apply for compounding of offence separately or conjointly.
- Once any one (main or co-accused) pays compounding charges → Offence is deemed compounded for all
- Co-accused must file separate application but no extra charges apply

### Timelines

- Rejection (if not accepted) - Within 2 months of application receipt
- Intimation of Compounding Charges - Within 2 months
- Payment deadline - Within 1 month of intimation
- Extension up to 6 months - By Competent Authority
- Beyond 6-12 months - Requires PCCIT approval
- 12-24 months - Requires CBDT Chairman's approval
- If delay is beyond 24 months - application rejected + prosecution continues.

### Points

- Defective Applications - Allowed to **cure** within 1 month of defect notice

#### Examples of curable defects

- Incorrect format used
- Incorrect AY/FY/section mentioned
- Non-payment/short payment of compounding fee
- Outstanding demand not cleared
- Non-submission of undertaking to withdraw appeals

**Special Approval Required From CBDT Chairman If:**

- 1) • Applicant has been convicted for 2 years or more
- 2) • Involvement in:
  - Terrorism / Anti-national activity
  - Shell companies / fake invoices / money laundering
  - Benami / Black Money Act offences



#  
Q1. Mr. MT under-reported income in ITR for AY 2021-22. This led to prosecution under Section 276C(1) on 15.03.2023. He now wants to compound the offence and files an application on 20.12.2024.

- Tax sought to be evaded: ₹4,00,000
- Base rate for compounding under Sec 276C(1) = 100% of tax sought to be evaded

$$C.C = 4,00,000 \times 1.5$$

$$\Rightarrow 6,00,000$$



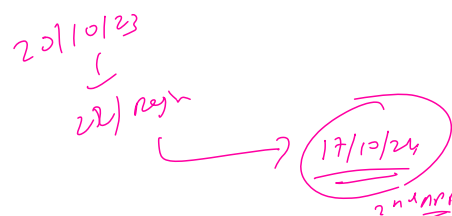
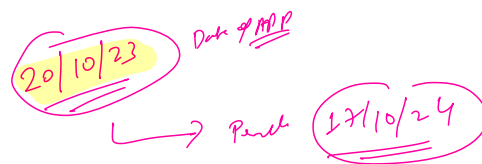
# Q2. Mr. MT, a deductor, failed to deposit TDS of ₹18,00,000 for Q2 of FY 2020-21, attracting prosecution under Section 276B. The prosecution initiated by the department on 25 October 2022.

- He filed a compounding application on 20 August 2023, but it was rejected due to a curable defect.
- He later refiled a consolidated compounding application for the same default on 5 November 2024,
- Base compounding rate for 276B = 3% of defaulted TDS

Based on the above, compute the final compounding charges payable by Mr. MT.

$$18,00,000 \times 3\% \times 1.5 \times 1.2$$

$$\Rightarrow 97200$$





Q3. Mr. Dev failed to deposit TDS under Section 276B in the following years:

FY	Default (₹)	Application History
2018-19	10,00,000	Compounded in 2021 (under old guidelines)
2020-21	8,00,000	No application ever filed
2021-22	12,00,000	Rejected in 2023 (curable defect only)

On 15 December 2024, Mr. Dev files consolidated application for an offence

- u/s 267B - FY 22-23 - 10,00,000  $\times 3\% \times 1.2 \times 1.5 = 54000$  ₹
- u/s 275A - FY 22-23 - 10,00,000  $\times 3\% \times 1.5 \text{ times} = 45000$  ₹

Prosecution initiated 1/12/23

Base compounding rate = 3% of defaulted amount



**Q4. Mr. Arman failed to deposit TDS of ₹15,00,000 for Q4 of FY 2021-22, attracting prosecution under Section 276B.**

- He filed a compounding application in March 2023
- Paid ₹36,000 (partial compounding charge)
- But later withdrew the application
- In Dec 2024, he files a fresh application for the same offence and same year only
- Base compounding rate: 3%

$$15,00,000 \times 3\% \times 1.2 \times 1.5 = 81,000$$

(36,000)  
45,000



Q5. Mr. Rohit failed to deposit TDS of ₹20,00,000 for Q1 of FY 2021-22 and ₹12,00,000 for Q2 of FY 2021-22, attracting prosecution under Section 276B.

- In May 2023, Mr. Rohit filed a consolidated compounding application covering both quarters.
- He paid ₹54,000 as part of the compounding charges (i.e., partial payment), but later withdrew the application.
- On 1 December 2024, he files a fresh consolidated application under revised guidelines covering both quarters.
- Base compounding rate = 3% of defaulted TDS

$$1.2 \times 1.5$$

$$(20,00,000 + 12,00,000) \times 3\% \times 1.2 \times 1.5$$
$$= 1,72,800$$



Q6. M/s MT Pvt. Ltd., a company, failed to deposit TDS of ₹12,00,000 for Q3 of FY 2020-21. Prosecution under Section 276B was launched against:

- The company
- Its Managing Director, Mr. Sahil
- Its Finance Manager, Mr. Vikram

They file a joint compounding application under revised guidelines on 20 November 2024.

Other details:

- No previous compounding application by any party
- Base compounding rate for 276B = 3% of defaulted TDS

**Based on the above, choose the correct option:**

- a. Each co-accused must pay ₹36,000 separately in addition to the company ~~XX~~
- b. Since it's a joint application, the order will be passed only in the name of the company ~~XX~~
- c. Payment by the company is sufficient; the offence will be deemed compounded for all accused ✓
- d. Mr. Vikram must file a separate application and pay charges, even if MD and Company are covered ~~XX~~



Q7. KT Ltd., a company, failed to deposit TDS of ₹15,00,000 for Q4 of FY 2020-21 and was prosecuted under Section 276B along with:

- Mr. Rajeev (Managing Director)
- Ms. Tanya (Authorized Signatory - TDS returns)
- The company and Mr. Rajeev jointly filed a compounding application in October 2023, which was rejected on merit.
- Later, Ms. Tanya alone filed a fresh compounding application for the same offence on 25 November 2024 under the revised guidelines.

**What is the correct tax treatment?**

- a. Ms. Tanya's application will be accepted at base rate of ₹45,000 since she didn't apply earlier
- b. Ms. Tanya cannot file a fresh application once company's application was rejected on merit
- c. Her application will be treated as second application, and charge = ₹45,000 × 1.2 = ₹54,000
- d. Ms. Tanya's application will be rejected as she did not file jointly with the main accus

