

F.No.370142/17/2026-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
(TPL Division)

New Delhi, 12th May, 2026

Sub: Clarifications on the Safe Harbour Rules for sale of rough diamonds in Special Notified Zones (SNZs)-reg.

Rules 99-102 of the Income-tax Rules, 2026, inter alia, provides for the safe harbour to a foreign company, being the eligible assessee, engaged in the business of selling raw diamonds in any notified special zone as referred to in section 9(9)(c)(ii)(C) of the Income-tax Act, 2025 (the Act). Certain queries have been received by the Board about the implementation of Safe Harbour Rules for sale of rough diamonds in Special Notified Zones. After considering the queries, the Board, in exercise of powers under section 239 of the Act, issues the following clarifications, namely:-

Q.1	Whether all diamonds (sorted and unsorted) imported with a Kimberley Process Certificate are covered within the definition of 'raw diamonds'?
Ans.	Rule 99(f) of the Income-tax Rules, 2026 defines "raw diamonds". According to the said definition, raw diamonds means diamonds that are, – (i) uncut or unpolished; (ii) unassorted; (iii) unworked or simply sawn, cleaved or bruted; (iv) not conflict diamonds as defined by the Kimberley Process; (v) accompanied by Kimberley Process Certificate issued by the Kimberley Process authority in the exporting country; and (vi) falling under Tariff Heading 7102 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). It is clear from the aforesaid definition that 'sorted diamond' does not fall under the definition of 'raw diamonds'. Further, in order to be considered as "raw diamonds", all sub-clauses of rule 99(f) are required to be satisfied simultaneously and simply having a Kimberley Process Certificate shall not be sufficient.
Q.2	What would be the applicable tax rates on the profits declared under safe harbour rules? Whether the benefits of deductions can be availed by foreign mining companies while paying applicable tax rates under the safe harbour rules? If so,

	the details thereof?
Ans.	The applicable tax rate would be the rates as applicable to a foreign company (i.e. 35%) and surcharge, wherever applicable. The Safe Harbour Rules specifies that if an eligible assessee (foreign company) declares minimum 4% profit of gross receipts from eligible business (sale of raw diamonds in a notified zone) as income, such declaration shall be eligible for safe harbour. That means such declaration shall be accepted by an income tax authority. However, foreign mining companies cannot avail the benefits of deductions while benefiting from safe harbour rules. This position is clearly laid out under rule 100(3) of Income-tax Rules, 2026.
Q.3	Whether the foreign mining companies, who opt for the safe harbour rules, would also be able to claim benefit under the double taxation avoidance agreement (DTAA) between India and their country of jurisdiction?
Ans.	Once a company has exercised safe harbour under the provisions of the Act, it means that it has paid taxes in accordance with such rules. Where such a company wants to avail any tax credit for such taxes in its home jurisdiction, it may do so depending upon the provisions of the DTAA between India and such country and the domestic law of that country.
Q.4	Under what circumstances can the option exercised by the foreign mining companies towards the safe harbour rules be declared invalid and what remedies would the foreign mining companies have in such a scenario?
Ans.	As per rule 101(3) of the Income-tax Rules, 2026, an option exercised by the foreign mining company towards safe harbour rules may be declared invalid if safe harbour is availed by furnishing incorrect facts or facts related to business are concealed.
Q.5	Does the eligible assessee need to be incorporated in India?
Ans.	The safe harbour regime is available to a foreign mining company. They need not be incorporated in India for availing safe harbour rules. In fact, once incorporated in India, the company becomes an Indian company and therefore, become ineligible to avail safe harbour rules in respect of sale of raw diamonds.
Q.6	Can the eligible assessee operate directly with the buyer or through an Indian trader?
Ans.	The safe harbour rules for sale of raw diamonds are available to a foreign mining company. The company is required to be involved itself in such business activity. Where an Indian trader is also involved in such activity, there would be two entities, the Indian trader and the foreign mining company. The profits of the Indian trader would be required to be determined separately under the provisions of the Act.
Q.7	Can the foreign mining companies avail benefit of the safe harbour rules regime for the entire period covering tax year 2024-25 (i.e. from April 2024 onwards) or will the benefit be restricted only to the period after issuance of the Notification i.e. 29th November 2024 onwards?
Ans.	Section 92CB of the Income-tax Act, 1961 (as it existed prior to its repeal) inter

	alia provides that the determination of income referred to in section 9(1)(i) of the Income-tax Act, 1961 shall be subject to safe harbour rules. It was applicable for the entire previous year 2024-25. Hence, foreign mining companies can avail benefit of the safe harbour rules regime for the entire period covering previous year 2024-25 for the purposes of the Income-tax Act, 1961.
Q.8	Will the buyer of raw diamonds in India be liable to deduct withholding tax (TDS) in relation to the sales consideration payable to the foreign mining companies?
Ans.	Yes, TDS provisions shall apply as they are applicable to foreign companies.
Q.9	What tax regime will be applied on a foreign mining company which has not exercised an option for the safe harbour rules?
Ans.	A foreign mining company which has not opted for safe harbour rules shall continue to be chargeable to tax as per the existing provisions of the Act read with relevant DTAA, wherever applicable.

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01/05/26

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Under Secretary (TPL-I)

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