Daily Tax Report ®
March 29, 2024, 2:30 PM GMT+5:30

Companies in India Get Flexible Safe Harbor for Intraparty Loans

By Shefali Anand

Interest Rate Options

The latest amendment also provides more options for the appropriate interest rates on intragroup loans. Where earlier the interest rate for all foreign currency loans had to be pegged to the London Inter-Bank Offer Rate, or LIBOR, now different benchmark rates can be used for different currencies, such as the Euro Interbank Offered Rate for euro loans.

These amendments "mark a significant stride towards aligning the country's tax regulations with global financing standards," said Deloitte in a note.

Historically, in several cases major Indian companies lent money to their overseas units at interest rates that were later questioned by Indian tax officials.

"There was a lot of litigation on intragroup financing transactions," said Siddharth Banwat, a partner and transfer pricing specialist at S Banwat & Associates LLP in Mumbai. By choosing the safe harbor, "it may bring certainty to a lot of entities with respect to intragroup financing transactions," he said.

Practitioners cautioned that the recent change will be beneficial only in limited cases–namely when companies make intra-group loans.

Nitin Narang, partner for international tax and transfer pricing at Nangia & Co LLP, said that companies that have to make a loan to related foreign entities can consider the safe harbor option if the prescribed interest rates are attractive to them.

However, to get more companies to opt for safe harbor rules, he said the government should include more types of international transactions under the safe harbor. These could include royalty payments, transactions involving provision of business support services, provision of marketing support services, and provision of management support services, said Narang. In addition, the government should consider lowering margin rates, which many taxpayers now find to be too high, he said.