

Tax Flash News

5 July 2023

Government issues FAQs relating to Tax Collection at Source (TCS) on Liberalised Remittance Scheme (LRS) and the purchase of overseas tour program package. Further, it issues a notification relating to the use of International Credit Cards (ICCs)

Executive Summary

Section 206C(1G) of the Income-tax Act, 1961 (the Act) provides for tax collection at source by a seller of an overseas tour program package from a buyer, being a person purchasing such package, at the rate of 5 per cent of the amount of the package. Similarly, TCS at the rate of 5 per cent is applicable on foreign remittance through the LRS.

The Finance Act, 2023 amended these [Section 206C(1G)] provisions whereby the rate of TCS was increased from 5 per cent to 20 per cent for the remittance under LRS as well as for the purchase of overseas tour program package. Further, the threshold of INR 7 lakh for triggering TCS on LRS was removed. These two changes were not applicable when the remittance is for education or medical purpose. These amendments were to take effect from 1 July 2023.

On 16 May 2023, the Government had notified¹ Foreign Exchange Management (Current Account Transactions) (Amendment) Rules, 2023 vide an e-gazette notification to remove the differential treatment for credit cards vis-a-vis other modes of drawal of foreign exchange under LRS. Further, the Ministry of Finance had issued a clarification² that any payments by an individual using their international Debit or Credit cards upto INR 7 lakh per financial year will be excluded from the LRS limits and hence, will not attract any TCS.

In view of the above, various representations were made with respect to the applicability of the above TCS provisions. Pursuant to this, the Ministry of Finance issued a press release³ on 28 June 2023 clarifying various aspects of TCS applicability on LRS and overseas tour program package. Please [click here](#) to read our Flash News on the same.

Recently, CBDT has issued FAQs⁴ to remove the difficulty in the implementation of changes relating to TCS on LRS and the purchase of overseas tour program packages. FAQs are summarised as follows:

Sr No.	FAQs	Answer
1	Whether payment through an overseas credit card would be counted in LRS?	The classification of the use of international credit card, while being overseas, as LRS has been postponed ⁵ . Therefore, no TCS is to be applicable on expenditure through international credit card while being overseas till further order.
2	Whether the threshold of INR 7 lakh, for TCS to become applicable on LRS, applies	The threshold of INR 7 lakh for LRS is a combined threshold for the applicability of the

¹ E-Gazette Notification F No. 1/5/2023-EM, dated 16 May 2023

² PIB release, dated 19 May 2023

³ PIB release, dated 28 June 2023

⁴ CBDT Circular No. 10 of 2023, dated 30 June 2023

⁵ As announced in the Press Release dated 28 June 2023

	<p>separately for various purposes like education, health treatment and others?</p> <p>For example, a remittance of INR 7 lakh under LRS is made in a financial year for education purpose. Further other remittances made in the same financial year are INR 7 lakh for medical treatment and INR 7 lakh for other purposes. In such a case, whether the exemption limit of INR 7 lakh shall be given to each of the three separately?</p>	<p>TCS on LRS irrespective of the purpose of the remittance.</p> <p>This is clear from the first proviso to Section 206C(1G). The proviso states that the TCS is not required if the amount or aggregate of the amounts being remitted by a buyer is less than INR 7 lakh in a financial year. The amendment by the Finance Act, 2023 has only restricted it to education and medical treatment purpose. Now, after the press release, the old position has been restored and the threshold continues to apply for INR 7 lakh in a financial year, irrespective of the purpose.</p> <p>Thus, in the given example, upto INR 7 lakh remittance under LRS during a financial year is not liable for TCS. However, subsequent INR 14 lakh remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance.</p> <p>In the example, if the remittances under LRS are made in the current financial year at different point of time, TCS rates for the remaining INR 14 lakh remittances under LRS would depend on the time of remittance as TCS rates changes from 1 October 2023. TCS rates would be applicable as under:</p> <ul style="list-style-type: none"> • First INR 7 lakh remittance under LRS during the financial year 2023-24 for education purpose (or for that matter any purpose) - No TCS • Remittances beyond INR 7 lakh under LRS during the financial year 2023-24, if on or before 30 September 2023 - TCS at 5 per cent (irrespective of the purpose unless it is for education purpose financed by a loan from a financial institution where the rate is 0.5 per cent) • Remittances beyond Rs 7 lakh under LRS during the financial year 2023-24, if on or after 1 October 2023 - TCS at 0.5 per cent (for education purpose financed by a loan from a financial institution), 5 per cent (for education or medical treatment) and 20 per cent (for other purposes).
3	<p>Since there are different TCS rates on LRS for the first 6 months and next six months of the financial year 2023-24, whether the threshold of INR 7 lakh, for the TCS to become applicable on LRS, applies separately for each six months?</p>	<p>No. The threshold of INR 7 lakh, for the TCS to become applicable on LRS, applies for the full financial year. If this threshold has already been exhausted; all subsequent remittances under LRS, whether in the first half or in the second half, would be liable for TCS at the applicable rate.</p>
4	<p>Whether the threshold of INR 7 lakh, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers?</p> <p>If not, how will the authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?</p>	<p>The threshold of INR 7 lakh for LRS is qua remitter and not qua authorised dealer. This is clear from the first proviso to sub-section (1G) of Section 206C. The proviso states that the TCS is not required if the amount or aggregate of amounts being remitted by a buyer is less than seven lakh rupees in a financial year.</p>

		<p>Since the facility to provide real-time update of remittance under LRS by remitter is still under development by the RBI, the details of earlier remittances under LRS by the remitter during the financial year may be taken by the authorised dealer through an undertaking at the time of remittance. If the authorised dealer correctly collects the tax at source based on the information given in this undertaking, he will not be treated as an 'assessee in default'. However, for any false information in the undertaking, appropriate action may be taken against the remitter.</p> <p>The same methodology of taking an undertaking from the buyer of an overseas tour program package may be followed by the seller of such package.</p>
5	There is a threshold of INR 7 lakh for remittance under LRS. Further, there is another threshold of INR 7 lakh for the purchase of an overseas tour program package where a reduced rate of 5 per cent of TCS is applicable. Whether these two thresholds apply independently?	Yes, these two thresholds apply independently. For LRS, the threshold of INR 7 lakh applies to make TCS applicable. For the purchase of an overseas tour program package, the threshold of INR 7 lakh applies to determine the applicable TCS rate as 5 per cent or 20 per cent.
6	A resident individual spends INR 3 lakh for the purchase of an overseas tour program package from a foreign tour operator and remits money which is classified under LRS. There is no other remittance under LRS or purchase of an overseas tour program during the financial year. Whether TCS is applicable?	<p>In the case of the purchase of an overseas tour program package, which is classified under LRS, TCS provision for the purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS.</p> <p>For the purchase of an overseas tour program package, the threshold of INR 7 lakh does not apply. Thus, in this case, the tax shall be required to be collected at 5 per cent since the total amount spent on the purchase of an overseas tour program package during the financial year is less than INR 7 lakh. The TCS should be made by the seller.</p>
7	There are different rates for remittance under LRS for medical/treatment/education purposes and for other purposes. What is the scope of remittance under LRS for medical treatment/education purposes?	<p>As per the clarification by the RBI, remittance for the purposes of medical treatment shall include:</p> <ul style="list-style-type: none"> • Remittance for the purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination • His medical expenditure; and • Other day-to-day expenses required for such purpose. <p>As per BPM6, A.P. (DIR Series) Circular No. 50⁶, code S0304⁷ covers the transactions which are related to health services acquired by residents traveling abroad for medical reasons, which includes medical services, other healthcare, food, accommodation, and local transport transactions.</p> <p>Additionally, code S1108 (under the Purpose Group Name 'Personal, Cultural & Recreational services') covers transactions for health services</p>

⁶ Dated 11 February 2016

⁷ Code S0304 (under the Purpose Group Name 'Travel'), in RBI master direction for LRS, pertains to travel for medical treatment.

		<p>rendered remotely or onsite (that is no travel by the service recipient is involved). This cover services from hospitals, doctors, nurses, paramedical and similar services, etc.</p> <p>TCS provision for the purpose of medical treatment would apply when the remittance is under code S0304 or under code S1108.</p> <p>Remittance for the purpose of education shall include:</p> <ul style="list-style-type: none"> • Remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination • The tuition and other fees to be paid to the educational institute; and • Other day-to-day expenses required for undertaking such a study. <p>Code S0305 (under the Purpose Group Name 'Travel'), in RBI master direction for LRS, pertains to travel for education (including fees, hostel expenses, etc.). As per BPM6, A.P. (DIR Series) Circular No. 50⁸, this code covers education-related services such as tuition, food, accommodation, local transport and health services acquired by resident students while residing overseas.</p> <p>Additionally, code S1107 (under the Purpose Group Name 'Personal, Cultural & Recreational services') covers transactions for education (e.g., fees for correspondence courses abroad) where the person receiving education does not travel overseas.</p> <p>TCS provision for the purpose of education would apply when remittance is under code S0305 or under S1107.</p>
8	<p>Whether the purchase of an international travel ticket or hotel accommodation on a standalone basis is the purchase of an overseas tour program package?</p>	<p>The term 'overseas tour program package' is defined as to mean any tour package which offers a visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.</p> <p>Purchase of only international travel ticket or purchase of only hotel accommodation, by in itself is not covered within the definition of 'overseas tour program package'. To qualify as an 'overseas tour program package', the package should include at least two of the following:</p> <ul style="list-style-type: none"> • International travel ticket • Hotel accommodation (with or without food)/boarding/lodging • Any other expenditure of similar nature or in relation thereto.

⁸ Dated 11 Feb 2016

Further to the Press Release issued on 28 June 2023, the Ministry of Finance vide an e-gazette notification⁹ dated 30 June 2023, amended the Foreign Exchange Management (Current Account Transactions) Rules, 2000, with effect from 16 May 2023, to reinstate Rule 7 thereof which excludes transactions undertaken by way of the use of international credit cards for making payment by a person towards meeting expenses while such person is on a visit outside India, from the ambit of LRS. Consequentially, TCS is not to apply on such payments made by an individual using their international credit cards.

Our comments

It has been a recent practice of the exchequer to issue guidelines/circulars in a question-and-answer form on various newly inserted TDS / TCS provisions under the Act. The above FAQs issued by the CBDT are a welcome move and provide clarity on various practical aspects relating to the implementation of the TCS provisions. The issuance of guidelines before the effective date of the provisions will help authorized dealer banks and the seller of the overseas tour program package, better prepare for the implementation of this provision. However, the requirement of collection of tax creates an additional compliance burden and cash blockage for the resident individuals.

The necessary amendments to Section 206C(1G) of the Act with respect to the changes in the TCS rate, insertion of the threshold of INR 7 lakh and deferment of the implementation of the revised provisions from 1 October 2023, are still awaited.

⁹ E-Gazette Notification F No. 1/5/2023-EM, dated 30 June 2023

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