

Tax Flash News

29 June 2023

The Ministry of Finance clarifies various aspects of Tax Collection at Source (TCS) applicability on Liberalised Remittance Scheme (LRS) and overseas tour program package

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 changes have not been made 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. Recently, the Ministry of Finance has issued a press release³ clarifying that:

- To give adequate time to banks and card networks to put in place requisite IT-based solutions, the Government has decided to postpone the implementation of its 16 May 2023 e-gazette notification. This would mean that transactions through International Credit Cards while being overseas would not be counted as LRS and hence would not be subject to TCS. The Press Release dated 19 May 2023 stands superseded.
- Threshold of INR 7 Lakh per financial year per individual under Section 206C(1G)(i) shall be restored for TCS on all categories of LRS payments, through all modes of payment, regardless of the purpose. Thus, for the first INR 7 Lakh remittance under LRS there shall be no TCS. Beyond this INR 7 Lakh threshold, TCS shall be
 - 0.5 per cent (if remittance for education is financed by an education loan)
 - 5 per cent (in case of remittance for education/medical treatment)
 - 20 per cent for others.

For the purchase of an overseas tour program package under Section 206C(1G)(ii), the TCS shall continue to apply at the rate of 5 per cent for the first INR 7 lakhs per individual per annum. The 20 per cent rate will only apply for expenditure above this limit.

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

- **Increased TCS rates to apply from 1 October 2023:** The increase in TCS rates, which were to come into effect from 1 July 2023 shall now come into effect from 1 October 2023 with the above modifications. Till 30 September 2023, earlier rates (prior to amendment by the Finance Act 2023) shall continue to apply.

Earlier and new TCS rates are summarised as under:

Nature of Payment	Earlier rate before the Finance Act 2023	New rate with effect from 1 October 2023
LRS for education financed by loan	Nil upto INR 7 lakh 0.5 per cent above INR 7 Lakh	Nil upto INR 7 lakh 0.5 per cent above INR 7 Lakh
LRS for Medical treatment/education (other than financed by loan)	Nil upto INR 7 lakh 5 per cent above INR 7 Lakh	Nil upto INR 7 lakh 5 per cent above INR 7 Lakh
LRS for other purposes	Nil upto INR 7 lakh 5 per cent above INR 7 Lakh	Nil upto INR 7 lakh 20 per cent above INR 7 Lakh
Purchase of Overseas tour program package	5 per cent (without threshold)	5 per cent till INR 7 Lakh, 20 per cent thereafter

Note - There shall be no TCS on expenditures under LRS under Section 206C(1G)(i) for the first INR 7 lakh, irrespective of the purpose.

- The necessary changes to the Rules [Foreign Exchange Management (Current Account Transactions Rules), 2000] will be issued separately. Legislative amendment in this regard shall be proposed in due course. The Government will issue relevant Circular and Frequently Asked Questions (FAQs) to clarify various practical issues in implementing this provision.

Our comments

Numerous comments and suggestions were received as regard to the issues and concerns emanating due to changes in TCS provisions, followed by an amendment to Foreign Exchange Management (Current Account Transactions Rules), 2000. It is a welcome move by the government:

- To give adequate time to Banks and Card networks to put in place requisite IT based solutions and postpone the implementation of its 16th May 2023 e-gazette notification. This would mean that transactions through International Credit Cards while being overseas would not be counted under LRS and hence would not be subject to TCS. The Press Release dated 19 May 2023 stands superseded.
- Restore the threshold of INR 7 Lakh per financial year per individual for TCS on all categories of LRS payments (excluding purchase of overseas tour program package), through all modes of payment, regardless of the purpose. Thus, for first INR 7 Lakh remittance under LRS there shall be no TCS;
- Increased TCS rates to apply from 1 October 2023

The necessary changes will be made to Foreign Exchange Management (Current Account Transactions) Rules, 2020. Circular and FAQs will also be issued separately. It would be worth waiting to see what clarifications will be issued on various practical issues that may arise to implement the new TCS framework.

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