

## Applicability of TCS for remittances under LRS

Section 206C of the Income Tax Act, 1961 provides for the collection of tax at source (“TCS”) on foreign remittance through the Liberalised Remittance Scheme (“LRS”) and on sale of overseas tour packages. With effect from July 1, 2023<sup>1</sup>, TCS @ 20% (from the current 5%) will apply on overseas tour packages and remittances under LRS (other than for education and medical treatment purposes) without any threshold. In case of remittances for education (other than education loans taken from specified financial institutions) and medical treatment exceeding INR 7,00,000 (Indian Rupees seven lakh) in a financial year, TCS at the rate of 5% will apply. If the education loan is obtained from a specified financial institution, then TCS @ 0.5% is to be collected.

On May 16, 2023, the Indian Government issued a notification<sup>2</sup> omitting Rule 7 of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, which exempted the use of international credit cards from LRS for payments made by a person while such a person was on a visit outside India. In effect, such an omission removes the exemption given to the use of international credit cards for meeting expenses by a person when he/she is abroad.

The omission of Rule 7 led to several queries. Accordingly, on May 18, 2023, the Indian Government released frequently asked questions (FAQs)<sup>3</sup> with respect to TCS on foreign remittance through LRS. In the said FAQs, it is *inter alia* clarified that:

- a) Remittance for medical treatment and education (other than loans taken from specified financial institutions) exceeding INR 7,00,000 (Indian Rupees seven lakh) will attract TCS @ 5% while remittances related to real estate investment, foreign tours, and travel will be subject to TCS @ 20%.
- b) Individuals availing loans for overseas education from specified financial institutions will be subjected to TCS @ 0.5% above the INR 7,00,000 (Indian Rupees seven lakh) threshold.
- c) Only remittances covered under LRS are liable to TCS.
- d) LRS does not cover the business visits of an employee. When an employee is being deputed by an entity, such expenses will be treated as residual current account transactions outside LRS and may be permitted by the authorized banker without any limit, subject to verifying the bona fide of the transaction.

<sup>1</sup> Finance Act, 2023 - <https://egazette.nic.in/WriteReadData/2023/244830.pdf>

<sup>2</sup> Notification No. F. No. 1/5/2023-EM dated 16 May 2023 - <https://egazette.nic.in/WriteReadData/2023/245899.pdf>

<sup>3</sup> Part A - <https://twitter.com/FinMinIndia/status/1659150479765671938/photo/1> and Part B - <https://twitter.com/FinMinIndia/status/1659150491652329472/photo/1>

Despite the above clarifications, concerns were raised about the applicability of TCS on small transactions. Accordingly, the Indian Government issued a Press Release<sup>4</sup> dated May 19, 2023 further clarifying that any payments by an individual using their international debit or credit cards upto INR 7,00,000 (Indian Rupees seven lakh) per financial year will be excluded from the LRS limits and will not attract any TCS. The existing beneficial TCS treatment for education and health payments will also continue.

In our understanding, this relaxation is given only for the amount spent using international debit or credit cards upto INR 7,00,000 (Indian Rupees seven lakh) in a financial year and would not be available for remittances made from India using international debit or credit cards for ticket booking, subscription fee, etc, which will continue to be subject to TCS @ 20%.

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<sup>4</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1925592>



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