<u>TCS on foreign transactions under LRS</u>

<u>Part A. Some clarifications on Tax Collection at Source</u>

1. Why is TCS required to be collected?

Ans. **Section 206C** of the Income-Tax Act 1961 provides for TCS in the business of trading in alcohol, liquor, forest produce, scrap etc. Sub-section (1G) of the aforesaid section provides for TCS on foreign remittance through the Liberalised Remittance Scheme and on the sale of overseas tour packages.

2. Is TCS applicable to all remittances made abroad?

Ans. No. Only **such remittances which are covered under LRS are liable to TCS**. These have been detailed in the answer to Q (5) in Part B of the clarifications.

3. What is the reason behind the increase in rates of TCS?

Ans. The reasons for the amendment are:

- The payment of TCS is not a final tax
- If the TCS payee is a taxpayer, he can claim credit for the TCS as his tax payment against regular income and adjust it against the advance tax etc., payments accordingly.
- If the TCS is of a person not being a taxpayer, then the 20% rate on such presumed income is not high. The tax rate slab of 20% starts in the new regime for incomes over Rs 12 lacs and is 30% for incomes over Rs 15 lacs.
- Instances have come to notice where the LRS payments are disproportionately high when compared to the disclosed incomes
- No changes in medical or Education expenses- Position stays as it was before the Finance Act 2023.
- Primary Impact only on investment in assets such as real estate, bonds, stocks outside India by HNI and tour travel packages or gifts to non-residents.
- Those individuals remitting from their own funds are normally expected to be higher-income taxpayers, and for those remitting through institutional loans for education, a concessional rate of 0.5% is provided.

4. What are the changes or increases in rates of TCS?

Ans. The TCS rates with the changes brought about in Finance Act 2023 are tabulated as under,

(i) <u>Remittance for the purpose of any education</u>

(i) Remittance for the purpose of any education [NO CHANGE]

	Old Position (up to 30.6.23)		**After Finance Act 2023** (from 1.7.2023)	
Nature	Threshold	Rate	Threshold	Rate
If the amount being remitted out is a loan obtained from any financial institution as defined in section 80E	7 lacs	0.5%	7 lacs	0.5%
Remittance is not out of loan from a financial institution	7 lacs	5%	7 lacs	5%

(ii) **<u>Remittance for the purpose of any medical Treatment</u>**

(ii) Remittance for the purpose of any medical Treatment [NO CHANGE]

	Old Position (up to 30.6.23)		**After Finance Act 2023** (from 1.7.2023)	
Nature	Threshold	Rate	Threshold	Rate
Remittance is for **Medical Treatment**	7 lacs	5%	7 lacs	5%

(iii) <u>Sale of Overseas tour package</u>

(iii) Sale of Overseas tour package

	Old Position (up to 30.6.23)		**After Finance Act 2023** (from 1.7.2023)	
Nature	Threshold	Rate	Threshold	Rate
Remittance is for **the purchase of a tour package**	Nil	5%	Nil	20%

(iv) <u>Any other Remittance (for Bonds, shares, real estate gifts etc.)</u>

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	Old Position (up to 30.6.23)		**After Finance Act 2023** (from 1.7.2023)	
Nature	Threshold	Rate	Threshold	Rate
Remittance is for **any other purpose**	7 lacs	5%	Nil	20%

5. What is the impact on travel and incidental expenses related to education and medical treatment?

Ans. For TCS on remittance for travel and incidental expenses related to education and medical treatment, the rates of TCS as applicable to remittances for education and medical treatment, respectively, shall apply. A detailed clarification will be issued separately.

Part B. Clarifications on the Liberalized Remittance Scheme

1. **What is the notification dated 16th May 2023 amending the FEM (CAT) Rules, 2000?**

The notification dated 16th May 2023 omits Rule 7 of the FEM(CAT) Rules, 2000. In effect, it removes the exemption given to the use of international credit cards for meeting his/her expenses by a person when he is abroad. Even earlier, all current account transactions undertaken on international credit cards in India were subject to Rule 5 of the FEM(CAT) Rules and covered under Liberalized Remittance Scheme (LRS). The notification dated 16th May 2023 does not affect any changes in the use of international credit cards by residents while in India.

2. What is Rule 7 of FEM(CAT) Rules, 2000?

Rule 7 of the FEM(CAT) Rules, 2000 exempted the use of international credit cards from the LRS for payments by a person towards meeting expenses while such a person is on a visit outside India.

3. What was the need for the notification?

While on a visit abroad, a person could use international debit cards or other methods or international credit cards for undertaking current account transactions. Payments by debit cards etc. have been treated as LRS even earlier. Due to the exemption under erstwhile Rule 7, expenditures through credit cards were not accounted for under the specified LRS limit, which has led to some individuals exceeding the LRS limits. Data collected from top money remitters under LRS reveals that international credit cards are being issued with limits in excess of the present LRS limit of USD 2,50,000. The differential treatment between debit cards and credit cards needed to be removed in the interest of uniformity and equity in the treatment of modes of drawal of foreign exchange and for capturing total expenditures under LRS for prudent foreign exchange management and to prevent by-passing of LRS limits.

RBI had written to the government on more than one occasion, pointing to the need to remove this differential treatment.

5. What modes of expenditure of foreign exchange are covered under FEM(CAT) Rules, 2000?

It includes the drawal of foreign exchange from an authorised person and use of an International Credit Card, International Debit Card or ATM Card. All such drawals for the purposes specified in Schedule III (as explained in FAQ 3 above) are eligible for the limit of US$2,50,000.

5. What are the purposes under FEM (CAT) Rules, 2000, under which a resident individual can avail of a foreign exchange facility?

As per Rule 5 of the FEM (CAT) Rules, 2000, Individuals can avail of a foreign exchange facility for the following purposes, as detailed in Schedule III of the Rules, within the LRS limit of USD 2,50,000 on a financial year basis. Prior approval of the Reserve Bank would be required for remittances exceeding the specified limits.

i. Private visits to any country (except Nepal and Bhutan)
ii. Gift or donation
iii. Going abroad for employment
iv. Emigration
v. Maintenance of close relatives abroad
vi. Travel for business, attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as an attendant to a patient going abroad for medical treatment/ check-up
vii. Expenses in connection with medical treatment abroad
viii. Studies abroad
ix. Any other current account transaction

6. Does LRS cover business visits of employees?

No. When an employee is being deputed by an entity for any of the above, and the expenses are borne by the latter, such expenses shall be treated as residual current account transactions outside LRS and may be permitted by the AD without any limit, subject to verifying the bona fide of the transaction.

7. What is Liberalised Remittance Scheme (LRS)?

Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April - March) for any 1 permissible current or capital account transaction or a combination of both. Further, **resident individuals** can avail of foreign exchange facility for the purposes mentioned in Para 1 of Schedule III of FEM (CAT) Rules 2000 within the limit of USD 2,50,000 only. **The Scheme is not available to corporate, partnership firms, HUF, Trusts etc.**

Under the LRS, in the financial year 2021-22, a total of USD 19.61 billion was remitted, rising from USD 12.68 billion in 2020-21. In 2022-23, it rose to more than USD 24.0 billion, of which overseas travel accounted for more than half.

8. What is a current account transaction?

As per FEMA Act, 1999, a "current account transaction" means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing, such transaction includes,

(i) Payments due in connection with foreign trade, other current business, services, and short- term banking and credit facilities in the ordinary course of business,

(ii) Payments due as interest on loans and as net income from investments,

(iii) Remittances for living expenses of parents, spouse and children residing abroad, and (iv) expenses in connection with foreign travel, education and medical care of parents, spouse and children.

iv) Expenses in connection with foreign travel, education and medical care of parents, spouse and children.

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