

Remittances using international credit cards to come under LRS and liable to TCS

26 May 2023



Summary

Spends on international credit cards (ICC) on visits outside India will also come under the purview of the Liberalised Remittance Scheme (LRS) w.e.f. 16 May 2023.

Any additional amount of remittance beyond the LRS limits would require prior approval of the Reserve Bank of India (RBI).

To mitigate practical difficulties, payments up to INR 7,00,000 in a FY are excluded while calculating the LRS limit. All remittances under LRS will continue to be subject to tax collection at source (TCS) at prescribed rates.

Background

- A resident individual may remit up to USD 2,50,000 per FY for any current or capital account transactions or a combination of both under the LRS.
- Earlier, remittances through credit cards were not being monitored by the RBI¹ and instances of foreign payments beyond the LRS limit were noticed.
- The government vide the Finance Act, 2020, introduced TCS provisions for remittances out of India under the LRS scheme², in order to widen and deepen the tax net.

Amendments vide Finance Act, 2023

- The reference to the term 'out of India' with regard to LRS has been deleted vide the Finance Act 2023, and hence, all remittances under LRS would be subject to TCS, whether incurred in India or outside India.
- TCS rates have been revised with effect from 1 July 2023.
- The summary of TCS rates for payments under LRS from 1 July 2023 is as under:

Purpose of remittance	Rate	Threshold
Education, where source of funds is through a loan obtained from a specified financial institution ³	0.5%	If the aggregate remittance exceeds INR 7,00,000
Education or medical treatment	5%	If the aggregate remittance exceeds INR 7,00,000
Other remittances	20%	No threshold limit (except for credit and debit card payments where the threshold of INR 7,00,000 applies)

¹ In lieu of the exclusion provided in Rule 7 of Foreign Exchange Management (Current Account Transaction) Rules, 2000 [FEMA CAT Rules]

² Section 206(1G) of the Income tax Act, 1961 (the Act)

³ As defined in section 80E of the Act

Amendment in FEMA CAT Rules and clarification issued

- The Ministry of Finance⁴ revised the FEMA CAT Rules. Thereafter, some clarifications⁵ and FAQs⁶ were issued, which cumulatively have the following impact:
 - a) The exclusion pertaining to payments through ICC while on overseas visits has been deleted. Consequently, all payments through ICC shall also be covered under LRS. This was done to remove the disparity between the payments made through debit cards and credit cards.
 - b) Payments through ICC and debit cards up to a threshold limit of INR 7,00,000 will not be considered as LRS and TCS provisions will not apply to such transactions.⁶
 - c) Expenses relating to the business visits of employees would not be covered under LRS. Such expenses will continue to be governed by FEMA CAT Rules without any limit.⁵

Our comments

- Banks will have to ensure that there is a suitable mechanism for tracking remittances covered within the ambit of LRS in order to comply with TCS requirements.
- The aforesaid changes would lead to blockage of funds of residents on account of TCS and increase the overall cost of spends under LRS.
- Further guidance on the distinction between personal and business expenses and business payments made through ICC are some of the practical issues that will have to be dealt with the business fraternity, and hence, merit attention by the authorities.
- It appears that business expenses incurred through credit cards will also be liable to TCS, which could be an unintended outcome of these changes.
- The government has stated that it will provide detailed guidelines on incidental expenses for education and medical treatment, which will be governed by the beneficial TCS provisions. This will be a very welcome move.
- The language of the press release indicates that the LRS limit is being enhanced by INR 7,00,000 for credit or debit card payments. However, this does not seem to be the government's intent and a clarification in this regard would be welcome.

⁴ Vide Notification no G.S.R. 369(E) dated 16 May 2023 to delete Rule 7 of Foreign Exchange Management (Current Account Transaction) Rules, 2000

⁵ FAQ dated 18 May 2023

⁶ Press release dated 19 May 2023

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