

CBDT releases guidelines to remove difficulty in implementation of TCS on LRS & overseas tour package

CIRCULAR TO REMOVE DIFFICULTY IN IMPLEMENTATION OF CHANGES RELATING TO TAX COLLECTION AT SOURCE (TCS) ON LIBERALISED REMITTANCE SCHEME (LRS) AND ON PURCHASE OF OVERSEAS TOUR PROGRAM PACKAGE

CIRCULAR NO. 10 OF 2023 [F.NO. 37 0142/23/2023-TPL], DATED 30-6-2023

Finance Act, 2023 has amended sub-section (1G) of section 206C of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') to, *inter alia*,

- (i) increase the rate of Tax Collection at Source (TCS) from 5% to 20% for remittance under LRS as well as for purchase of overseas tour program package; and
- (ii) remove the threshold of Rs. 7 lakh for triggering TCS on LRS.

These two changes did not apply when the remittance is for education and medical purpose.

2. Subsequently, the Government had notified Foreign Exchange Management (Current Account Transactions) (Amendment) Rules, 2023 vide an e-gazette notification dated 16th May, 2023 to remove the differential treatment for credit cards vis a vis other modes of drawal of foreign exchange under LRS. This change has now been postponed for the time being.

3. Comments were received about the practical difficulties that may arise from the removal of the threshold for LRS payments other than for education and medical treatment. During meetings with the RBI, Banks and Card networks, some financial institutions have desired more time to modify their current IT systems to address issues arising from the implementation of the provision of TCS on credit card transactions.

4. In order to address these issues, a [Press Release](#), dated 28.6.2023 (copy enclosed) was issued by Ministry of Finance wherein the following decisions relating to income-tax have been taken:

- (i) Threshold of Rs. 7 lakh per financial year per individual in clause (i) of subsection (1G) of section 206C shall be restored for TCS on all categories of LRS payments, through all modes of payment, regardless of the purpose: Thus, for first Rs. 7 lakh remittance under LRS there shall be no TCS. Beyond this Rs. 7 lakh threshold, TCS shall be at the rate of —
 - (a) 0.5% (if remittance for education is financed by loan taken from a financial institution);
 - (b) 5% (in case of remittance for education/medical treatment);
 - (c) 20% for others.

For purchase of overseas tour program package under clause (ii) of sub-section (1G) of section 206C, the TCS shall continue to apply at the rate of 5% for the first Rs. 7 lakh per

individual per annum; the 20% rate will only apply for expenditure above this limit.

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

5. Earlier and new TCS rates are summarised as under:

Nature of payment (1)	Earlier rate before Finance Act, 2023 (2)	New rate w.e.f. 1st October, 2023 (3)
LRS for education, financed by loan from financial institution	Nil upto Rs. 7 lakh 0.5% above Rs. 7 lakh	Nil upto Rs. 7 lakh 0.5% above Rs. 7 lakh
LRS for Medical treatment/ education (other than financed by loan)	Nil upto Rs. 7 lakh 5% above Rs. 7 lakh	Nil upto Rs. 7 lakh 5% above Rs. 7 lakh
LRS for other purposes	Nil upto Rs. 7 lakh 5% above Rs. 7 lakh	Nil upto Rs. 7 lakh 20% above Rs. 7 lakh
Purchase of Overseas tour program package	5% (without threshold)	5% till Rs. 7 lakh 20% thereafter

*Note: (i) TCS rate mentioned in column 2 shall continue to apply till 30 September, 2023.

(ii) There shall be no TCS on expenditure under LRS under clause (i) of sub-section (1G) of section 206C upto Rs. 7 lakh, irrespective of purpose.

6. Sub-section (1-I) of section 206C of the Act provides that if any difficulty arises in giving effect to the provisions of sub-section (1G) of this section, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty. Accordingly, the following guideline is issued under this provision.

Guideline

Question 1: Whether payment through overseas credit card would be counted in LRS?

Answer: As announced in the press release dated 28th June, 2023, the classification of use of international credit card while being overseas, as LRS is postponed.

Therefore, no TCS shall be applicable on expenditure through international credit card while being overseas till further order.

Question 2: Whether the threshold of Rs. 7 lakh, for TCS to become applicable on LRS, applies separately for various purposes like education, health treatment and others? For example, if remittance of Rs. 7 lakh under LRS is made in a financial year for education purpose and other remittances in the same financial year of Rs. 7 lakh is made for medical treatment and Rs. 7 lakh for other purposes, whether the exemption limit of Rs. 7 lakh shall be given to each of the three separately?

Answer: It is clarified that the threshold of Rs. 7 lakh for LRS is combined threshold for applicability of the TCS on LRS irrespective of the purpose of the remittance. This is clear from the first proviso to sub-section (1G) of section 206C of the Act. 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

seven lakh rupees in a financial year. The amendment by the Finance Act, 2023 has only restricted it to education and medical treatment purpose. Now, after press release, old position has been restored and the threshold continues to apply for seven lakh rupees in a financial year, irrespective of the purpose.

Thus, in the given example, upto Rs. 7 lakh remittance under LRS during a financial year shall not be liable for TCS. However, subsequent Rs. 14 lakh remittance under LRS shall be liable for TCS in accordance with the TCS rates applicable for such remittance.

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 Rs. 14 lakh remittances under LRS would depend on the time of remittance as TCS rates changes from 1st October, 2023. TCS rates would be applicable as under: —

First Rs. 7 lakh remittance under LRS during the financial year 2023-24 for education purpose (or for that matter any purpose) -> No TCS

Remittances beyond Rs. 7 lakh under LRS during the financial year 2023-24, if on or before 30th September 2023 -> TCS at 5% (irrespective of the purpose unless it is for education purpose financed by loan from a financial institution when the rate is 0.5%)

Remittances beyond Rs. 7 lakh under LRS during the financial year 2023-24, if on or after 1st October 2023 -> TCS at 0.5% (if it is for education purpose financed by loan from a financial institution), 5% (if it is for education or medical treatment) and 20% (if it is for other purposes)

Question 3: Since there are different TCS rates on LRS for the first six months and next six months of the financial year 2023-24, whether the threshold of Rs. 7 lakh, for the TCS to become applicable on LRS, applies separately for each six months?

Answer: No. The threshold of Rs. 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 applicable rate.

Question 4: Whether the threshold of Rs. 7 lakh, for TCS to become applicable on LRS, applies separately for each remittance through different authorised dealers? If not, how will authorised dealer know about the earlier remittances by that remitter through some other authorised dealer?

Answer: It is clarified that the threshold of Rs. 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 of the Act. 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. The threshold continues to apply qua remitter.

Since the facility to provide real time update of remittance under LRS by remitter is still under development by the RBI, it is clarified that 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 information given in this undertaking, he will not be treated as "assessee in default". However, for any false information in the undertaking, appropriate action may be taken against the remitter under the Act.

It is further clarified that same methodology of taking undertaking from the buyer of overseas tour program package may be followed by the seller of such package.

Question 5: There is threshold of Rs. 7 lakh for remittance under LRS for TCS to become applicable while there is another threshold of Rs. 7 lakh for purchase of overseas tour program package where reduced rate of 5% TCS applies. Whether these two thresholds apply independently?

Answer: Yes, these two thresholds apply independently. For LRS, the threshold of Rs. 7 lakh applies to make TCS applicable. For purchase of overseas tour program package, the threshold of Rs. 7 lakh applies to determine the applicable TCS rate as 5% or 20%.

Question 6: A resident individual spends Rs. 3 lakh for purchase of 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 overseas tour program during the financial year. Whether TCS is applicable?

Answer: In case of purchase of overseas tour program package which is classified under LRS, TCS provision for purchase of overseas tour program package shall apply and not TCS provisions for remittance under LRS.

Since for purchase of overseas tour program package, the threshold of Rs. 7 lakh for applicability of TCS does not apply, TCS is applicable and tax is required to be collected by the seller. In this case the tax shall be required to be collected at 5% since the total amount spent on purchase of overseas tour program package during the financial year is less than Rs. 7 lakh. The TCS should be made by the seller.

Question 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?

Answer: As per the clarification by the RBI, remittance for the purposes of medical treatment shall include, —

- (i) remittance for purchase of tickets of the person to be treated medically overseas (and his attendant) for commuting between India and the overseas destination;
- (ii) his medical expense; and
- (iii) other day to day expenses required for such purpose.

It may be noted that code S0304 (under the Purpose Group Name "Travel"), in RBI master direction for LRS, pertains to travel for medical treatment. As per BPM6, A.P. (DIR Series) Circular no. 50, dated 11th Feb., 2016 this code covers the transactions which are related to health services acquired by residents travelling abroad for medical reasons, which includes medical services, other healthcare, food, accommodation and local transport transactions.

In addition, code S1108 (under the Purpose Group Name "Personal, Cultural & Recreational services") covers transactions for health services rendered remotely or on-site (that is no travel by service recipient is involved). This cover services from hospitals, doctors, nurses, paramedical and similar services, etc.

TCS provision for purpose of medical treatment would apply when remittance is under code S0304 or under code S1108.

Education

Remittance for purpose of education shall include, —

- (i) remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination;
- (ii) the tuition and other fees to be paid to educational institute; and
- (iii) other day to day expenses required for undertaking such study.

It may be noted that 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. 50, dated 11th Feb., 2016 this code covers education related services such as tuition, food, accommodation, local transport and health services acquired by resident students while residing overseas.

In addition, 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.

TCS provision for purpose of education would apply when remittance is under code S0305 or under S1107.

Question 8: Whether purchase of international travel ticket or hotel accommodation on standalone basis is purchase of overseas tour program package?

Answer: The term 'overseas tour program package' is defined as to mean any tour package which offers 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.

It is clarified that 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 'overseas tour program package', the package should include at least two of the followings:—

- (i) international travel ticket,
- (ii) hotel accommodation (with or without food)/boarding/lodging,
- (iii) any other expenditure of similar nature or in relation thereto.

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