

TCS ON OUTWARD REMITTANCE UNDER LIBERALIZED REMITTANCE SCHEME (LRS)

Dear Friends,

As you are aware that for benefits of Individuals and HUFs the RBI with consultation of Central Government brought Liberalized remittance Scheme. Under LRS Scheme, an Individual person who is resident in India as per FEMA is permitted to remit outside India fund up to US\$ 2,50,000 per financial year (April to March) without any approval of RBI for any permitted current account or capital account transactions or both such as opening foreign currency account abroad, purchase of property or making investments abroad, private visit, gift/donation, business trip, medical treatment, studies abroad, going abroad on employment, etc. This scheme is available only to Individuals (including minors) and not to corporates, Partnership firms, LLP, HUF, etc.

The government of India decided to introduce this TCS to widen the tax net and get tax evaders to start paying tax and not to further burden the existing taxpayers.

Therefore, Finance Act 2020 inserted new sub-section (1G) in Section 206C of the Income-tax Act, 1961 (“Act”) which is effective from 1st October, 2020. It has introduced the provision of TCS on the remittances made under Liberalized Remittance Scheme (“LRS”) of Reserve Bank of India (“RBI”) and remittance made towards Overseas Tour Program Package.

- Section 206C(1G)(a) – TCS on foreign remittance through Liberalised Remittance Scheme (LRS)

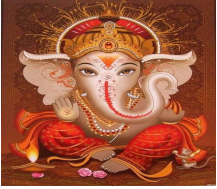
The said Section 206C(1G)(a) - TCS will be applicable only on the remittances made under LRS Scheme of RBI. Remittances other than LRS such as remittances by non-individuals, remittances for payment of import of goods or services, etc. are not subject to TCS provisions.

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EXTRACT OF SECTION 206C(1G)

(1G) Every person,—

(a) being an authorised dealer, who receives an amount, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India;

(b) being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package, shall, at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier, collect from the buyer, a sum equal to five per cent of such amount as income-tax:

Provided that the authorised dealer shall not collect the sum, if the amount or aggregate of the amounts being remitted by a buyer is less than seven lakh rupees in a financial year and is for a purpose other than purchase of overseas tour program package:

Provided Further that the sum to be collected by an authorised dealer from the buyer shall be equal to five per cent of the amount or aggregate of the amounts in excess of seven lakh rupees remitted by the buyer in a financial year, where the amount being remitted is for a purpose other than purchase of overseas tour program package:

Provided also that the authorised dealer shall collect a sum equal to one half per cent of the amount or aggregate of the amounts in excess of seven lakh rupees remitted by the buyer in a financial year, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education:

Provided also that the authorised dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller:

Provided also that the provisions of this sub-section shall not apply, if the buyer is,—

(i) liable to deduct tax at source under any other provision of this Act and has deducted such amount;

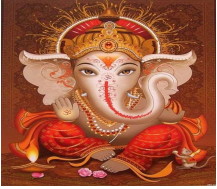
(ii) the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to clause (20) of section 10 or any other person as the Central

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Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

Explanation.—For the purposes of this sub-section,—

- (i) "authorised dealer" means a person authorised by the Reserve Bank of India under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999) to deal in foreign exchange or foreign security;
- (ii) "overseas tour programme package" means 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.

LRS SCHEME OF RBI

Under LRS Scheme, an Individual person who is resident in India as per FEMA is permitted to remit outside India fund up to US\$ 2,50,000 per financial year (April to March) without any approval of RBI for any permitted current account or capital account transactions or both such as opening foreign currency account abroad, purchase of property or making investments abroad, private visit, gift/donation, business trip, medical treatment, studies abroad, going abroad on employment, etc. This scheme is available only to Individuals (including minors) and not to corporates, Partnership firms, LLP, HUF, etc.

LIABILITY TO COLLECT TCS

The authorized dealer who is authorized by RBI under Foreign Exchange Management Act, 1999 ("FEMA") to deal in foreign currency or foreign security, would be liable to collect such TCS from the buyer who is remitting such amount of foreign exchange outside India under the LRS scheme.

POINT OF LIABILITY TO COLLECT TCS

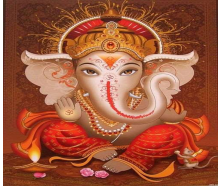
From 01.10.2020, any amount or aggregate of the amounts being remitted outside India by a person resident in India under the LRS Scheme of RBI in excess of Rs. 7 Lakh in a F.Y will attract TCS @5%. It is pertinent to note that the Tax shall be collected from 01/10/2020 but threshold limit of 7 lakhs shall be calculated from 01/04/2020.

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RATES OF TCS ON FOREIGN REMITTANCE

Particulars	Rate if pan available	Rate if PAN not available
<i>Remits an amount of 7 lakhs or more in a F.Y</i>	5%	10%
<i>If education loan is remitted</i>	0.5%	5%

Note:- No reduction has been provided on aforesaid TCS rates under Section 206C(1G) till 31.03.2021 due to situation of COVID-19.

EXCLUSIONS FOR THE APPLICABILITY OF TCS

The liability to collect TCS under LRS or overseas tour program package will not be applicable in case of below categories of buyer:

- i) Central Government, State Government, an embassy, a High Commission, legation, commission, consulate, and the trade representation of a foreign State.*
- ii) A local authority as defined in Section 10(20) of the Act.*
- iii) Any person specified by the Central Government through a notification in the Official Gazette. However, no such person has been notified till date.*
- iv) A buyer who is liable to deduct tax at source ("TDS") under any other provision of the Act and has deducted the same.*

APPLICABILITY OF GST

The GST will continue to apply on currency conversion and on Remittance Service Charge. The same will not be applied on the tax collection (TCS)

STATEMENT OF TCS

Rule 31AA is related to furnishing of 'Statement of TCS' under section 206C(3) of the Income Tax Act, 1961.

According to section 206C(3), every collector is required to furnish a statement of tax collection and deposit of TCS in the prescribed form and within the prescribed time limit after paying the tax collected to the credit of the Central Government.

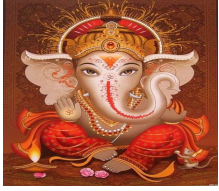
Rule 31AA(1)/(2) prescribes filing of quarterly TCS statements u/s 206C(3) in Form No. 27EQ

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DUE DATES

Sl.No	Quarter of the financial year ended	Due date for furnishing TCS statement in Form No. 27EQ	Download Certificate Form 27D
1.	30th June	15th July of the financial year	30th July of the financial year
2.	30th September	15th October of the financial year	30th October of the financial year
3.	31st December	15th January of the financial year	30th January of the financial year
4.	31st March	15th May of the financial year immediately following the financial year in which collection is made	30th May of the financial year immediately following the financial year in which collection is made

AMENDMENT MANDATING REPORTING OF TRANSACTIONS ON WHICH TAX WAS NOT

COLLECTED IN STATEMENT OF TCS:

CBDT vide Notification No. 54/2020 dated 24.07.2020 has amended Rule 31AA, Rule 37BC, Rule 37CA, Rule 37-I of the Income Tax Rules, 1962 and Form No. 27EQ to incorporate the changes introduced in the TCS provisions by the Finance Act, 2020.

EXTRACT OF AMENDMENT IS PROVIDED BELOW:-

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 31AA, in sub-rule (4), after clause (v), the following clauses shall be inserted namely:-

“(vi) furnish particulars of amount received or debited on which tax was not collected,-

(a) by the authorised dealer from the buyer under the first proviso to sub-section (1G) of section 206C.

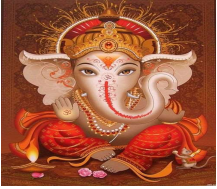
(b) by the authorised dealer under fourth proviso to sub-section (1G) of section 206C; and

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(c) by the authorised dealer or seller of an overseas tour program from the buyer under clause (i) or clause (ii) of the fifth proviso of sub-section (1G) of section 206C or in view of any notification issued under clause (ii) of the fifth proviso of sub-section (1G) of section 206C.

TAX ON LRS REMITTANCE IS NOT AN ADDITIONAL COST

The tax paid should not be confused as an additional cost or tax on the fund transfer. The TCS will be reflected as tax credit in deductees Form 26AS. So, the amount of TCS can be claimed as credit against tax payable while filing income tax returns. In case, the TCS is higher than deductee's tax payable, then refund can be claimed.

CHANGES ON NEW BUDGET-2023

In Finance Budget 2023 the government has increased rate of TCS in case of foreign remittances, such as purchase of stocks, property etc. abroad from 5% to 20%. It means that an Indian individual wants to remit abroad for purchase of sale of property or stocks or for any other purposes is required to pay TCS @20% instead of earlier @5%.

This will not apply in relation to any remittances for the purpose of Education and Medical Purposes.

At present, TCS on remittances made for booking overseas tour packages is 5% without any threshold limit.

It effectively means that the tour operator will have to collect 20% of the cost of the overseas tour package from the travellers irrespective of the amount of the package. This would increase the cash outflow immediately for the travellers.

PLEASE NOTE THAT

Similarly, remittances made for foreign education not funded through an education loan attracts TCS of 5% on the aggregate amount over Rs 7 lakh in a financial year.

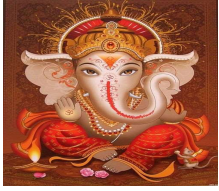
For remittances made for foreign education through a loan obtained from any financial institute as defined in Section 80E or for the purpose of medical treatment, the TCS rate is 0.5% of the aggregate amount above Rs 7 lakh. There is no change in the prevailing provisions of TCS on foreign remittance under LRS for education and medical purposes.

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Parents often remit money to their children studying abroad. If the parent can establish that the money is for education purposes, TCS will be 5% if the aggregate amount is over `7 lakh. The reason for remitting the money abroad will have to be mentioned in the remittance form.

While it will be easier to establish the purpose of education if the funds are for tuition fees or hostel expenses, it may be difficult if the student stays in a rented apartment. If the parent fails to establish the education link, the TCS will be applicable at 20% without any threshold limit. So, those studying abroad should prefer to stay in a university-provided accommodation to reduce cash outflow issues because of the increase in TCS rate.

ILLUSTRATION OF REMMITANCE AND APPLICABLE TCS BEFORE AND AFTER BUDGET 2023

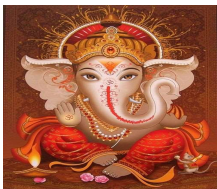
SR. No.	Particulars	Up to 30.06.2023		On or after 01.07.2023	
		If PAN is Available	If PAN is not Available	If PAN is available	If PAN is not available
1	Overseas Tour Program (Payment for Purchase of Ticket, Booking Hotel, etc.)	Flat 5% of Remittance Amount	@10% instead of 5% of Remittance Amount	Flat 20% of Remittance Amount	Flat 40% of Remittance Amount
2	LRS - For Education and Medical Treatment	5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY	@10% instead of 5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY	5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY	@10% instead of 5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY

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3	Remittance related to Studies abroad, where source of Fund is Educational Loan	0.5 % of the remittance amount in excess of 7.00 Lacs during FY	@5% instead of 0.5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY	0.5 % of the remittance amount in excess of 7.00 Lacs during FY	@5% instead of 0.5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY
4	LRS – Other than Education and Medical Treatment	5% of Remittance Amount in Excess of Rs. 7.00 Lacs during FY	@10% instead of 5%	Flat 20% of Remittance Amount	Flat 40% of Remittance Amount

NO TAX IS COLLECTIBLE:

(a). The Authorized Dealer shall not collect the sum if the amount or aggregate of the amounts being remitted by a buyer is less than seven lakh rupees in a financial year (Only If payment is for Medical and Education Purpose).

(b). Sum to be collected by an authorized dealer from the buyer shall be equal to five per cent of the amount or aggregate of the amounts in excess of seven lakh rupees remitted by the buyer in a financial year, if amount remitted is more than Seven Lacs. (Only If Payment is for Medical and Education Purpose).

(c). The Authorized Dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller.

(d). Person responsible for Tax Collection is liable to deduct tax at source under any other provision of this Act and has deducted such amount.

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(e). Payment is collected from the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to clause (20) of section 10. and

(f). Any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

LET'S UNDERSTAND THROUGH AN EXAMPLE

Assume Transactions of Mr. X are follows.

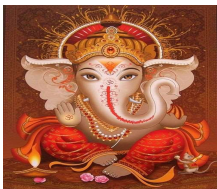
Sr. No.	Transaction date	Amount Remitted	Cumulative Remitted Amount	Purpose of remittance	Applicable TCS
1	03.07.2022	800000	800000	Medical	5000(5%of remitted amount-700000)
2	05.10.2022	650000	1450000	Gift	32500(5% of 650000)
3	22.10.2022	120000	1570000	Travel	6000(5% of Rs. 120000)
4	10.11.2022	525000	1100000	Education Fees(Out of Education Loan)	2650(0.5% of Rs. 525000)
5	12.01.2023	400000	2495000	Family Maintenance	20000(5% of Rs. 400000)
6	25.01.2023	700000	3195000	Education Fees(Out of personal savings and not from Education Loan)	35000(5% of Rs. 700000)

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7	03.07.2023	800000	800000	Medical	5000(5% of Rs. 800000-700000)
8	05.10.2023	650000	1450000	Gift	130000(flat 20% of Rs. 650000)
9	22.10.2023	120000	1570000	Travel	24000(flat 20% of Rs. 120000)
10	10.11.2023	525000	2095000	Education Fees(Out of Education Loan)	2650(0.5% of Rs. 525000)
11	12.01.2024	400000	2495000	Family maintenance	80000(20% of Rs. 400000)
12	25.01.2024	700000	3195000	Education Fees(Out of personal savings and not from Education Loan)	35000(5% of remitted amount in excess of Rs. 7.0 Lakhs)

CONCLUSION the TCS rates on foreign remittances have been increased to check tax avoidance and AML compliances. The deducted TCS amount will be credited in the Statement of Account or 26AS of the individuals and he can claim refund of TCS collected by filing his return of income.

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