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Recent Updates on Liberalised Remittance Scheme

25.05.2023

Introduction

Liberalised Remittance Scheme is a scheme introduced by RBI under which all the resident individuals which includes minors as well, are allowed to freely remit up to USD 250,000 per financial year (April — March) for any permitted current or capital account transaction or the combination of both. The scheme has been one of the most important instruments to boost international trade and investment as well as for easing the capital flow into and out of India.

The primary aim of the liberalized remittance scheme is to liberalize the being of foreign exchange regulations and ease the smooth transfer of funds abroad by Indian residents. The scheme also aims to promote and encourage non-residents to invest in India and promote outward remittances from India.This scheme is not available to corporates, partnership firms, HUFs and Trusts. One can make remittance in any freely convertible foreign currency.

The following are the purposes covered under FEM (CAT) Rules, 2000, under which a resident individual can avail a foreign exchange facility:

As per the Rule 5 of the FEM (CAT) Rules, 2000, individuals can take the benefit of a foreign exchange facility for the purposes described below, within the threshold limit of USD 2, 50,000 on a financial year basis. Prior approval of Reserve Bank of India is mandatory for remitting an amount exceeding specified limit.

a. Personal visits to any country except Nepal and Bhutan
b. Gift or donation
c. Going abroad for employment
d. Emigration
e. Maintenance of close relatives abroad
f. Travel for business, attending a conference or specialized training or for meeting

expenses for meeting medical expenses, or cheek-up abroad, or for accompanying as an attendant to a patient going abroad for medical treatment/ check-up

g. Charges related to the medical treatment abroad
h. Studies Overseas
i. Any other transaction related to the current account.

Above are the purposes for which a resident is permitted to avail a foreign exchange facility, however the LRS Scheme do not cover any business visits of the employees because when an employee is deputed by an entity for any of the above purposes wherein all the charges are borne by the entity, these charges will 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

Following are the capital account transactions permissible under the Liberalised Remittance Scheme:

a. Opening of Foreign currency account abroad with a bank.

b. Acquisition of Immovable Property abroad, Overseas Direct Investments and Overseas Portfolio Investment in accordance with the provisions contained in Foreign Exchange Management (Overseas Investment) Rules, 2022, Foreign Exchange Management (Overseas Investment) Regulations, 2022 and Foreign Exchange Management (Overseas Investment) Directions, 2022

c. Extending Loans including loans in Indian rupees to NRIs who are relatives as defined in the Companies Act, 2013.

Modes of Expenditure

The Modes of expenditure are as follows:

a. The drawal of foreign exchange from an authorized person and includes opening of Letter of credit.
b. International Credit Card
c. International Debit Card
d. ATM Card
e. Any other thing by whatever name called which has the effect of creating foreign exchange liability

Amendments in the Liberalised Remittance Scheme

Rule 7 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 charges while such a person is on a visit outside India.

Notification on the Amendment of the FEM (CAT) Rules, 2000

The notification dated 16th May 2023 omitted Rule 7 of the FEM (CAT) Rules, 2000. In effect, it removed the exemption given to the use of international credit cards for meeting his/her charges by a person when he/she was abroad. All current account transaction deals accepted on international credit cards in India are subordinated to Rule 5 of the FEM (CAT) Rules and covered under Liberalised Remittance Scheme (LRS).

The Notification dated 16th May 2023 does not bring any changes in the use of international Credit cards by residents while in India.

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Tax Collected at Source

According to Section 206C of the Income Tax Act 1961, the business of trading in alcohol, liquor, forest produce, scrap etc. Sub-section (1G) provides for TCS on foreign remittance through the Liberalised Remittance Scheme (LRS) and on the sale of overseas tour packages. The remittances which are covered under LRS are liable to TCS.
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.

As the notification referred above amends the FEMA current account rules bringing the international credit card payments under the ambit of the LRS, it in return now triggers TCS provisions as well.

Changes in the TCS

As per the Finance Act 2023, changes in the TCS rates are tabulated below:

Nature / Remittance Type	Before Finance Act 2023 (up to 30.06.2023)		After Finance Act 2023 (from 01.07.2023)	
	Threshold limit INR	Rate	Threshold limit	Rate
If the amount being remitted for **Education** is out of loan obtained from any financial institution as defined in section 80E	7 lacs	0.5%	7 lacs	0.5%
If the amount being remitted for **Education** is not out of loan from a financial institution	7 lacs	5%	7 lacs	5%
Remittance is for **Medical Treatment**	7 lacs	5%	7 lacs	5%
Remittance is for the purchase of a **tour package**	Nil	5%	**7 lacs (*)**	**20%**
Remittance is for **any other purpose**	7 lacs	5%	**7 lacs (*)**	20%

(*) *To remove any procedural ambiguity, MoF on 19.05.2023 has clarified that any payments by an individual using their international Debit or Credit cards upto ₹7 lakhs per financial year will be excluded from the LRS limits and hence, will not attract any TCS. Existing beneficial TCS treatment for educational and health payments will also continue.*

In the absence of PAN, the above tax rate will be higher of 5% or twice the rate mentioned in table as per provision of Section 206CC of Income Tax Act.

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Following are the few examples referring to the above amendments:

<u>Case1:</u>

Mr. Viraj, Indian Resident has a Credit Card with a Credit Limit of ₹ 20, 00,000. He went on an International Vacation to Australia. He used his Credit Card to pay all the bills such as hotel bills, shopping, restaurant, and cabs in Australia amounting to ₹10, 00,000/-.

Explanation:

Total Spends/Bill - ₹10, 00,000
20% TCS - ₹2, 00,000
Total outflow on Trip - ₹12, 00,000
(Note- Bank may charge additional Forex Markup, GST when you use Credit Card Abroad)

Here Mr. Viraj has to pay 20% TCS on his spends upfront. The bank which has issued him a credit card will deposit that 20% TCS against his PAN card. Mr. Viraj can claim this TCS at the time of filling his Income Tax Return.

<u>Case 2:</u>

Ms. Rajvi is travelling to Singapore from India and using her International debit/credit card to pay for all the expenses going to be incurred in Singapore. Her total expenses amounts to ₹ 6, 50,000.

Explanation:

According to the Governments' new amendment dated 19.05.2023, Ms. Rajvi need not pay 20% TCS, since her expenses does not exceed ₹ 7, 00,000.

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