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Credit card forex payments under LRS: You have to pay 20% TCS on these transactions from July 1, 2023

By Anulekha Ray, ET Online Last Updated: May 18, 2023, 10:26 PM IST

Synopsis
Credit card spending in a foreign currency will now be a part of LRS's annual limit of $2,50,000 per person. Further, it will be subject to tax collected at source (TCS). Budget 2023 has increased TCS for foreign remittances under the LRS from 5 per cent to 20 per cent (except for education and medical purposes). Know how you will be impacted

TCS rate to be hiked from July 1 for international credit card usage: Explained

The finance ministry recently amended rules under the Foreign Exchange Management Act (FEMA) to bring international credit card spending under the Liberalised Remittance Scheme (LRS). Put simply, credit card spending in a foreign currency will now be a part of LRS's annual limit of $2,50,000 per person. Further, it will be subject to tax collected at source (TCS).

This move came after Finance Minister Nirmala Sitharaman, while moving Finance Bill 2023 in the Parliament, asked the Reserve Bank of India (RBI) to look into ways to bring credit card payments on overseas tours under LRS.

Credit card payments under LRS: What changes

On May 16, 2023 the Ministry of Finance issued a notification mentioning to omit rule 7 of the Foreign Exchange Management (Current Account Transactions) Rules, 2000. They shall come into force on the date of their publication in the Official Gazette, according to the notification.

TAP TO WATCH

As a result, the special privilege that international credit cards enjoyed earlier will no longer be available and they will be treated at par with other money transfer instruments. The only exception to this amended LRS rule will be applicable for payments made through money held in RFC account in a bank in India.

Section 7 states, "Nothing contained in rule 5 shall apply to the use of International Credit Card for making payment by a person towards meeting expenses while such person is on a visit outside India."

Rule 5 of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, said, "Every drawal of foreign exchange for transactions included in Schedule III shall be governed as provided therein: Provided that this rule shall not apply where the payment is made out of funds held in Resident Foreign Currency (RFC) Account of the remitter."

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According to a notification by the Reserve Bank of India dated May 26, 2015, the revised Schedule III said:

Individuals can avail of foreign exchange facilities for the following purposes within the limit of $2,50,000 per annum. Any additional remittance in excess of the said limit for the following purposes will require prior approval of the Reserve Bank of India.

1) Private visits to any country (except Nepal and Bhutan)
2) Gift or donation
3) Going abroad for employment
4) Emigration
5) Maintenance of close relatives abroad
6) Travel for business, or attending a conference or specialised training or for meeting expenses for meeting medical expenses, or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up.
7) Expenses in connection with medical treatment abroad

8) Studies abroad
9) Any other current account transaction

Now, with the omission of rule 7 of Foreign Exchange Management (Current Account Transactions) Rules, 2000, the credit card payments for transactions falling under Schedule III transactions will come under LRS.

How will this rule impact you?
"The move will essentially require persons undertaking transactions through international credit cards during their travels outside India to be cognizant of the restrictions on transactions listed out in Schedule III of the Rules, which are in terms of monetary caps imposed on certain identified transactions. Accordingly, the prior consent requirement as mentioned will kick in only if these caps are breached (and some of these limits are reasonably high as well), and it will have to be analysed how the industry reacts to these changes," said Shreya Suri, Partner, IndusLaw.

"Rule 7 of the Foreign Exchange Management (Current Account Transactions) Rules allowed certain foreign currency payments made using a credit card without covering them under the umbrella of Liberalised Remittance Scheme. That meant that an individual could make the said payments even above the threshold of USD 250,000 specified under LRS. However, the only payments allowed under Rule 7 were the payments toward expenses incurred on a foreign visit. That means if a person is travelling outside India, the expenses incurred during such a foreign trip using a credit card were counted towards the LRS quota of the individual. Now, the omission of Rule 7 means that even foreign travel payments would be covered under LRS," said Ankit Jain, Partner, Ved Jain & Associates.

20% TCS for credit card forex payments under the LRS from July 1, 2023
Budget 2023 has increased TCS for foreign remittances under the LRS from 5 per cent to 20 per cent (except for education and medical purposes). This rule will be effective from July 1, 2023.

At present, under LRS, remittances made for foreign education, via an education loan paid abroad, attract a TCS of 0.5 per cent for the amount transferred beyond Rs 7 lakh. However, if the source of funding is not education loan, then money remitted overseas even for the purpose of education attracts TCS at 5 per cent if the amount is above Rs 7 lakh. This will remain same after July 1, 2023.

TCS on remittances for booking overseas travel packages will increase from the existing 5 per cent to 20 per cent. This rule will be effective from July 1, 2023.

If you are purchasing an overseas tour package from an international travel agent in foreign currency using your credit card, you have to pay a TCS of 20 per cent from July 1, 2023. Even if you purchase foreign currency individually from an authorised dealer for your foreign trip, you have to pay TCS of 20 per cent.

Simplifying the TCS rule, Pallav Pradyumn Narang, Partner, CNK, said, "The measures impose a collection of tax at source from your account every time you spend your money using your credit card on international spends. In simple words, it blocks a chunk of cash that will be available to you as a tax credit or a refund only after you file your income tax return."

"The original intent of the government was to impose this only on expenses made via credit cards for for foreign tours, but the language of the measures has seemingly exposed all international transactions via credit cards subject to this TCS levy," Narang added.

The implication is more relevant in light of the amendments made by Budget 2023 which has applied TCS of 20 per cent on all LRS transactions without any basic threshold limit, Jain added.

"The central government was wary that they would be able to collect TCS where the trip is booked through a travel agent.

However, where the payment was made through a credit card, they could not collect TCS on the same. Now, with this omission, since the foreign travel payments by credit card would also be covered under LRS, TCS at the rate of 20 per cent would also be applicable on these transactions," Jain mentioned.

Who will collect TCS?

The onus of collecting this payment is going to be on the authorised dealer, i.e., the bank which has issued the credit card, said many experts. The bank would now collect an additional amount of 20 per cent from the credit card holder to deposit the same as TCS. The TCS collected would be deposited in the credit card holder's PAN which can be adjusted against any income tax liability for that financial year, Jain said.

"A process may be laid for this wherein the holder of an international credit card, before making any payment, would be asked by a pop-up message on the nature of the transaction, and when he does so, TCS would be automatically triggered and instead of say $10,000 and extra $2,000 is collected. It may be just like an online payment made for say spending on hotels abroad wherein while your spend value is $10,000, but a final payment approval of an excess amount is sought before payment is processed," said Vivek Jalan, Partner, Tax Connect Advisory, a multi-disciplinary tax consultancy firm.

How to get a TCS refund

It is important to remember that TCS is not a tax by itself. It is adjustable against a taxpayer's total income tax liability in a financial year. An upfront TCS of 20 per cent on tour packages will increase the cash outflow. If the user does not have an adequate tax liability to offset the TCS, he or she will have to file for a refund which could take several months, thus, severely impacting his or her cash flow, said Neeraj Agarwala, Partner, Nangia Andersen India, leading business consultant firm. So, while making a budget for your next foreign trip, you must factor in this condition, experts advised.

"There will be an additional cash outflow of 20 per cent of such spends for an assessee from July 2023 which may impact the spending pattern and the overall credit limit. Lastly, it would be pertinent to observe how the operational nuances are worked out by both RBI and credit card companies for effecting the notification on ground zero and tying it up with TCS collection," Keshav Singhania, Head - Private Client, Singhania & Co.

In Video: TCS rate to be hiked from July 1 for international credit card usage: Explained

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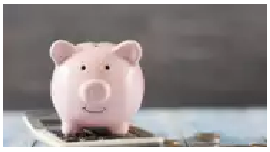
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