Credit card spends abroad

Transactions carried out overseas will now come under the ambit of RBI's annual remittance ceiling of $2,50,000, and attract a 20% Tax Collected at Source. Why has govt changed the rules, how are you impacted?

AANCHAL MAGAZINE

THE CENTRE has amended rules under the Foreign Exchange Management Act (FEMA), bringing international credit card spends outside India under the Liberalised Remittance Scheme (LRS). Also, from July 1, spending on international credit cards will attract a higher rate of Tax Collected at Source (TCS) at 20%.

The government said the decision was taken in consultation with the Reserve Bank of India. The move, notified Tuesday night, will likely impose a significant compliance burden on both card-issuing banks and consumers.

What changes

Credit card spends outside India have been brought under the ambit of the LRS — under which all resident individuals, including minors, can remit up to US $2,50,000 (approximately Rs 2.06 crore) abroad per year without prior approval from the RBI.

Bringing credit card transactions under LRS enables the levy of a higher TCS, as announced in the Budget for 2023-24. Till June 30, a TCS of 5% will be levied on such spending on overseas tour packages (without threshold) or any other category (beyond threshold of Rs 7 lakh), except for medical and education purposes.

The use of an international credit card to make payments towards meeting expenses while overseas was so far not covered under the LRS. The spending on international credit cards was excluded from the LRS by way of Rule 7 of the Foreign Exchange Management (Current Account Transaction) Rules, 2000. With the new notification, Rule 7 has been omitted. The government has clarified that the changes will not apply to payments for the purchase of foreign goods/ services from India, such as subscriptions to newspapers, magazines, or online streaming services.

"It is strictly for transactions under Schedule III (of the FEM rules) and not for payments for purchase of foreign goods/ services. This demand had come from the domestic travel industry," a Finance Ministry official said.

Schedule III to FEM (CAT) Amendment Rules include overseas transactions such as private visits outside India, gift/donation and going abroad for employment.

Why the changes

The Finance Ministry in a set of Frequently Asked Questions (FAQs) issued Thursday said that the tweak in these rules will help bring parity between the international usage of credit and debit cards, which were already part of LRS. Also, it said that instances had come to notice where the "LRS payments are disproportionately high when compared to the disclosed incomes". It also clarified that the LRS does not cover business visits of the employee when the costs are borne by the employer.

"Payments by debit cards etc. have been treated as LRS even earlier. Due to the exemption under erstwhile Rule 7, expenditures through credit cards were not accounted for under the specified LRS limit, which has led to some individuals exceeding the LRS limits. Data collected from top money remitters under LRS reveals that international credit cards are being issued with limits in excess of the present LRS limit of USD 2,50,000. The differential treatment needed to be removed in the interest of uniformity and equity in the treatment of modes of drawal of foreign exchange and for capturing total expenditures under LRS for prudent foreign exchange management and to prevent by-passing of LRS limits," it said.

There has been a surge in spending by Indians on overseas travel — they spent $12.51 billion in the April-February period of fiscal 2022-23, an increase of 104% compared to the same period the previous year, albeit over a low base due to Covid-linked travel restrictions.

According to RBI data, in April-February of FY2022, the total amount spent by domestic travellers on international destinations was $6.13 billion under the RBI's LRS for resident individuals. During April-February 2022-23, transactions using credit cards, in volume terms, increased 32.6% to Rs 267.35 crore. In value terms, spending on credit cards increased almost 50% to Rs 12.95 lakh crore during this period.

The measures for credit cards follow the government's earlier steps to introduce TCS levy for overseas tour packages.

In February 2020, the government in the Budget announced the insertion of a new clause under Section 206C of the Income-tax Act to levy 5% TCS on overseas remittances and for sale of overseas tour packages. It became applicable from October 2020.

Tax on spends abroad

The government had changed the TCS limits for foreign remittances in the Budget for 2023-24. The Budget had stated that on foreign outward remittance under LRS, other than for education and medical purposes, a TCS of 20% will be applicable from July 1, 2023. Before this proposal, a TCS of 5% was applicable on foreign outward remittances above Rs 7 lakh, and 5% without any threshold for overseas tour packages.

In March, while moving the Finance Bill 2023 in Lok Sabha, Finance Minister Nirmala Sitharaman had said RBI had been asked to look into ways to bring credit card payments on foreign tours under the LRS.

Compliance burden

Experts said the changes for credit card spends will likely add to the compliance burden of banks and financial institutions. They also pointed out that if the move is intended to track overseas transactions, the TCS rate of 20% is probably too high and could have been reviewed at 1-2%.

Sandeep Jhunjhunwala, partner, Nangia Andersen LLP said, "On remittances connected with employee business travels, business visits were hitherto covered under LRS and this inclusion remains. However, where an employee's overseas work travel expenses are borne by the employer, the LRS regulations excluded such expenses from the LRS limits of the employee… practical challenges could be faced in ascertaining whether an employee's travel is a business travel or not."

Also, TCS being a direct tax levy collected by the seller of specified goods from the buyer and deposited to the government, it could add to the burden of a traveller at the time of purchase of a tour package. While taxpayers can claim refunds on the TCS levy at the time of filing their returns, this could result in their funds being locked until the refund is initiated by the tax department, experts pointed out.

"For credit card users travelling or making payments abroad, the 5% TCS charge is a burden. So, say, the invoice value is 100 then 105 will get deducted from the consumer's end. This will increase to 20% after July 1," Supreme Court advocate Deepak Joshi said. Joshi said the authorities would have to issue a clarification about the different kinds of credit card use. "If it's used in a hospital abroad, TCS will not apply at a higher rate. So how will the banking company know at the point of sale whether TCS has to be collected or not?" Joshi said.

"Also, foreign expenses will have to be separately recorded in the credit card statement now for different categories. From that point of view, a clarification will have to be issued about operational hiccups," he added.

TOTAL CREDIT CARD SPEND

OUTWARD REMITTANCES UNDER THE LRS FOR RESIDENT INDIVIDUALS

	Apr-Feb 2022-23	Apr-Feb 2021-22	YoY change (%)
Overseas travel	12.51 ($bn)	6.13 ($bn)	104.1
Total outward remittances*	24.18 ($bn)	19.61 ($bn)	23.3

Total includes remittances for deposits, property purchases, gifts and medical treatment, among others; Source: RBI

● MINISTRY ISSUES FAQs

Credit card use for firms outside tighter LRS rule

FE BUREAU
New Delhi, May 18

USE OF INTERNATIONAL credit cards by employees of a company, where the expenditure is borne by the company, will not be included in the liberalised remittance scheme (LRS) and will not be subject to an annual cap of $2,50,000.

In a set of FAQs on Thursday, the finance ministry clarified that LRS will not cover business visits of employees. "When an employee is being deputed by an entity for any of the above, and the expenses are borne by the latter, such expenses shall be treated as residual current account transactions outside LRS, and may be permitted by the Authorised Dealer without any limit, subject to verifying the bona fide of the transaction," said the ministry.

However, payments on a foreign e-commerce website through an international credit card even if the person is not abroad are already part of the LRS cap. This will also be subject to the new 20% tax collected at source, from July 1, as against 5% now.

Experts welcomed the clarifications. "Where an employee's overseas work travel expenses are borne by the employer, the LRS regulations excluded such expenses from the LRS limits of the employee. This exclusion which was a part of the LRS regulations has been reiterated in the FAQs.

Consequently, business travel expenses borne by the employee would be considered under LRS and that borne by the employer falls out of LRS club," said Sandeep Jhunjhunwala, Partner, Nangia Andersen

He however, noted that practical challenges could be faced in ascertaining whether an employee's travel is a business travel or not. "Also, testing of whether the expenses are borne by the employer to effectively apply the exclusion, could be a daunting exercise especially where the payments are not routed through the AD Banker and effected through credit cards," he said.

In the FAQs, the ministry clarified that the changes are intended to bring in parity in tax treatment of remittances using debit and credit cards. The RBI had also written to the government on more than one occasion, pointing to the need to remove this differential treatment.

New rules to bring parity in tax treatment of remittances via debit and credit cards

"Data collected from top money remitters under LRS reveals that international credit cards are being issued with limits in excess of the present LRS limit of $2,50,000," it said, while noting that payments by debit cards have been treated as LRS even earlier.

Due to the exemption under erstwhile Rule 7, expenditures through credit cards were not accounted for under the specified LRS limit, which has led to some individuals exceeding the LRS limits. "The differential treatment between debit cards and credit cards needed to be removed in the interest of uniformity and equity in the treatment of modes of drawal of foreign exchange and for capturing total expenditures under LRS for prudent foreign exchange management and to prevent by-passing of LRS limits," it said.

The finance ministry had notified changes to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 effective May 16 under which use of credit cards by Indians while on foreign visit came under the ambit of the LRS overseen by the RBI.

The higher TCS rate, according to the Finance Act 2023, will take effect from July 1.

Credit Card Spends in Foreign Currency to Attract 20% TCS

Finance ministry clarifies on transactions that will come under LRS and face tax

Our Bureau

New Delhi: Foreign currency payments such as digital subscriptions to publications or goods bought on foreign ecommerce sites through international credit cards will count toward an individual's Liberalised Remittance Scheme (LRS) account and attract 20% tax collected at source (TCS), officials said.

However, if these purchases are made in Indian rupees, they will not be counted against LRS and face any TCS, said one of them.

According to the officials cited, corporate cards given to employees for official expenditure overseas will also not attract TCS, as these expenses are covered under residual current account transactions outside the LRS.

The finance ministry Thursday issued a detailed clarification in the form of frequently asked questions (FAQs), explaining the decision to bring international credit card spending under the Reserve Bank of India's LRS with immediate effect. This means credit card spending will be covered by the 20% TCS rule for LRS that goes into effect July 1.

The decision invited criticism and faced backlash from the travel and tourism industry in particular.

FAQs issued on placing int'l credit card spends under LRS

Move to bring parity between debit and credit cards

Credit card payments being used to exceed LRS limit

CLARIFICATIONS

Biz spending by employees abroad exempted

Overseas loan-funded education payments to face **0.5% TCS**

Detailed clarification on education, health

Practical Challenges Ahead

▸▸ From Page 1

The ministry said the latest change in Foreign Exchange Management Act rule was intended to bring parity between remittances and overseas spending using debit and credit cards. The ministry had, through a notification dated May 16, scrapped Rule 7 of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, which kept international credit card spending out of the LRS ambit while debit card payments were covered.

As per the clarification, business expenses by an employee on an overseas business trip will not be part of LRS. "When an employee is being deputed by an entity for any of the above, and the expenses are borne by the latter, such expenses shall be treated as residual current account transactions outside LRS and may be permitted by the AD (authorised dealer) without any limit, subject to verifying the bona fide of the transaction," according to the finance ministry.

Experts called for further clarity.

There could be practical challenges in ascertaining whether an employee's travel is a business trip or not, said Sandeep Jhunjhunwala, partner, Nangia Andersen LLP.

"Also, testing of whether the expenses are borne by the employer to effectively apply the exclusion could be a daunting exercise, especially where the payments are not routed through the AD (authorised dealer) banker and effected through credit cards," he said.

CASH FLOW ISSUES

Deloitte India partner Alok Agrawal said, "It would need to be seen if expenses incurred by employees on their international work-related trips would also be impacted. If so, this would cause cash flow issues for such employees. RBI may issue operational guidelines/clarifications with more details."

LRS remittances will face 20% TCS from July 1 against 5% now, barring expenditure on health and education. The ministry said incidental expenses related to travel for education and medical treatment will continue to attract the existing lower rate and it would issue a "detailed clarification" separately about this.

LRS up to Rs 7 lakh a year for educational purposes is exempt from TCS. Beyond that it attracts a 5% levy. For those who take loans for overseas education, a lower 0.5% TCS will be levied above the Rs 7 lakh threshold.