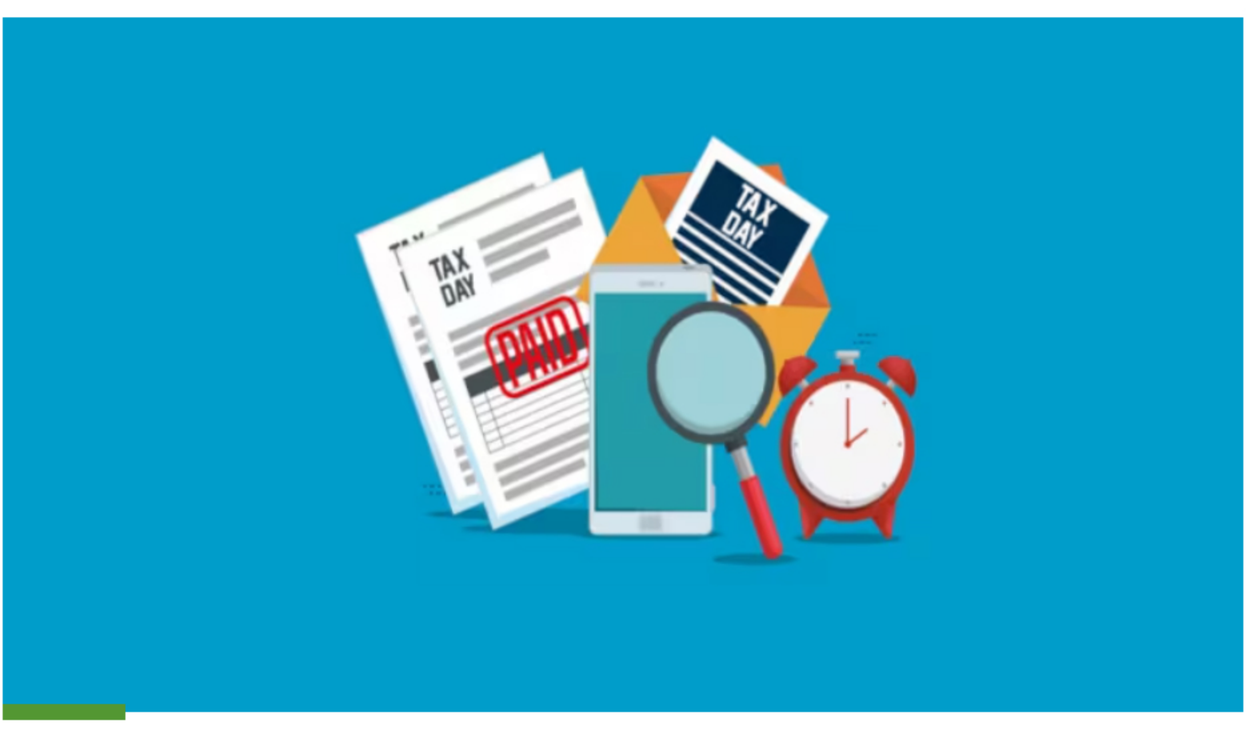
Tax collected at source on foreign remittances: One step forward, two steps back

The rationale for increasing the TCS rate is not clear, but it causes hardship to honest taxpayers and could encourage people to resort to unofficial routes for overseas remittances.

PARESH KARIA | FEBRUARY 08, 2023 / 05:50 PM IST



Budget 2023 proposes to sharply increase the tax collected at source rate on money sent overseas under the Liberalised Remittance Scheme to 20 percent from 5 percent. To understand how this will impact you, let us first understand the concept of LRS and TCS.

The Reserve Bank of India introduced the LRS in February 2004 to allow Indians to send money outside the country easily. The maximum amount that can be remitted under the scheme has been revised periodically, based on the prevailing macro- and microeconomic conditions:

Under the scheme, currently, one can remit up to $250,000 per family member (including minors) in each financial year. So a family of four can remit up to $1 million in a financial year.

Money can be remitted overseas for expenses such as:

- Travel for tourism, business, or employment
- Education
- Medical treatment
- Maintenance of a relative
- Gifts or donations

Remittances are also allowed for capital account transactions like:

- Opening of bank accounts
- Purchase of property
- Investment in shares, bonds, and other financial instruments
- Investment in businesses
- Loans to NRI relatives

The scheme has become very popular over the past five years as more Indians are sending money overseas for their children's education and to open bank accounts, purchase property, and invest in securities.

OUTWARD REMITTANCE UNDER THE LRS OVER THE LAST 5 YEARS

Item	2017-18	2018-19	2019-20	2020-21	2021-22
1 Outward Remittances under the LRS	11,333.60	13,787.60	18,751.40	1,648.17	19,610.77
1.1 Deposit	414.9	455.9	623.37	680.37	830.05
1.2 Purchase of immovable property	89.6	84.5	86.43	62.75	112.9
1.3 Investment in equity/debt	441.8	422.9	431.41	471.8	746.57
1.4 Gift	1,169.70	1,370.20	1,904.53	1,586.24	2,336.29
1.5 Donations	8.5	8.7	22.32	12.59	16.55
1.6 Travel	4,022.10	4,803.80	6,954.20	3,239.67	6,909.04
1.7 Maintenance of close relatives	2,937.40	2,800.90	3,437.46	2,680.10	3,302.37
1.8 Medical Treatment	27.5	28.6	33.88	29.75	37.79
1.9 Studies Abroad	2,021.40	3,569.90	4,989.04	3,836.12	5,165.33
1.10 Others		242.2	268.74	85.03	153.88

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Earlier, it was very easy to remit funds under the LRS. All one had to do was approach your bank, fill up the A-2 form, specify the purpose of remittance, and sign the declaration form. The bank would then debit your Indian account and remit the funds abroad.

However, in **Budget 2020**, the government introduced TCS on remittances under LRS with effect from October 1, 2020. Since then, banks have been required to collect tax at 5 percent at the time of remitting funds under the LRS for an amount exceeding Rs 7 lakh.

TCS is not an additional tax. It is similar to TDS – tax deducted at source. The tax collected is credited to your account with the authorities and adjusted against your tax liability.

However, this causes inconvenience to the remitter. Firstly, you must provide more funds at the time of remittance. Secondly, if you are subject to TDS or have already paid advance tax, the excess TCS will have to be claimed as a refund while filing tax returns and the money will be blocked till you get the refund.

In the latest budget, the government has proposed a significant increase in the rate of TCS on foreign remittances to 20 percent from July 1, 2023, for certain such transactions:

THE CURRENT AND PROPOSED TCS RATES

S No.	Type of remmitance	Present rate	Proposed rate
(i)	For the purpose of any eduacation, if the amount being remitted out is a loan obtained from any financial institutino as defiend in Section 80E	0.5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh	No change
(ii)	For the purpose of education, other than (i) or for the purpose of medical treatment	5% of the amount of the aggregate of the amounts in excess of Rs. 7 lakh	No change
(iii)	Overseas tour package	5% without any threshold limit	20% without any threshold limit
(iv)	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh	20% without any threshold limit

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This sharp increase will inconvenience people wanting to send money overseas, especially taxpayers subject to TDS. So now, if you wish to remit $250,000 outside India, you will have to provide $300,000 because $50,000 will be collected by the bank as TCS. This amount can be adjusted against your tax liability.

However, if you are subject to TDS or have paid advance tax, the excess TCS will be blocked until you get the refund from the income tax authorities.

A salaried employee earning Rs 50 lakh would be subject to TDS on his entire income. If he wants to remit $100,000, he will be subject to TCS of $20,000. This excess tax can be claimed as a refund, which will be returned only after a period of time. He will also lose some interest on the funds blocked.

The government has also proposed to remove the exemption limit of Rs 700,000 on foreign remittances under the LRS. A plain reading of the proposal suggests that even a payment of $10 in foreign currency for app subscriptions or online services will be subject to TCS. Since credit card payments in foreign currency are also covered under the LRS limit, how tax at source will be collected remains to be seen.

One fails to understand the rationale behind the concept of the TCS and, more importantly, the massive increase in the rate to 20 percent. Is it meant to deter people from sending money overseas?

The ostensible reason for the TCS seems to be that the government wants to track outward remittances and correlate them with the taxable income of the remitter. However, since banks link remittances with the PAN of the remitter, such data is already available to the government even without TCS. In case of a mismatch or doubt, the tax authorities can seek information from the remitter.

When the LRS scheme was introduced in 2004, it was considered a step towards making the rupee fully convertible on the capital account and allowing people to remit money outside India freely. However, today, after almost 20 years, we are moving in the reverse direction, trying to discourage the remittance of funds.

The sharp increase in the TCS rate and removal of the exemption limit seem to be a retrogressive step, especially considering the comfortable forex reserves of over $500 billion. As explained earlier, it causes hardship to honest taxpayers. Further, it could encourage more people to resort to unofficial routes for remittances. Hence, the government should seriously reconsider this proposal.

PARESH KARIA is a Chartered Accountant with rich experience of over 20 years across banking, investment advisory, real estate, and Immigration. He has worked with reputed organizations like HDFC Bank, ICICI Bank, and RBS Coutts (erstwhile ABN Amro Bank) at senior levels in Investment Advisory and Private Banking. Paresh is a thought leader and a regular panelist on TV shows on reputed Channels. He also writes for leading business publications and portals.

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