

MEA notifies date of entry into force of agreement on social security with Portugal

March 17, 2017

In brief

India signed a bilateral agreement on social security (the agreement) with Portugal on 04 March 2013. The Ministry of External Affairs (MEA) has now notified¹ the date of entry into force of the agreement to be 08 May 2017.

In detail

The salient features of the agreement are summarised below:

General

- The agreement shall apply to all persons who are, or have been, subject to the legislation of either of contracting states (India or Portugal), as well as members of their families and their survivors.
- Workers who are posted by the employer to whom they are normally attached from one country (India or Portugal) to the other country (India or Portugal) for a period of up to 60 months to perform services for that employer, shall be governed by the legislation of the sending country (India or Portugal) only. The eligible individual needs to obtain a certificate of Coverage (CoC) from the respective

social security authorities in the manner prescribed.

- The period of detachment may be extended beyond 60 months if the competent authorities of the contracting countries (India and Portugal) mutually agreed to do so.
- The above provision will also apply in cases where workers are deputed by their employer from one country (India or Portugal) to a third country by the same employer, and are subsequently deputed from the third country to India or Portugal, as the case may be.
- Self-employed individuals who usually perform an activity in the territory of one country (India or Portugal) and move to the territory of the other country for a period upto 60 months to perform the same activity, shall be governed by the legislation

of the sending country (India or Portugal).

- A crew member/ flying personnel of an enterprise which, for hire or reward or on its own account, operates international transport services for passengers or goods, and has its registered office in the territory of a country (India or Portugal), shall be subject to the legislation of that country.
- Crew members of a sea going vessel flying the flag of India will be governed by the social security provisions of India and *vice versa*.
- The Agreement does not apply to a civil servant/ members of diplomatic missions and consular posts, or a person working in a public enterprise, local authority or other institution of a public nature, who is sent to work

¹ https://www.mea.gov.in/press-releases.htm?dtl/28078/India_Portugal_Social_Security_Agreement

in the territory of either state (India or Portugal). Such employees and their families will continue to be governed by the legislation of their home country.

Exportability of benefits

Same benefits shall be awarded where the Residents of a contracting state (India or Portugal) stay or reside in the other contracting state (Portugal or India).

Totalisation of period of coverage

The agreement provides for totalisation of period of coverage, where the period of contribution in one country (India or Portugal) will be included in the period of contribution in the other country for determining the eligibility of benefits under the social security schemes of India or Portugal, as the case may be, provided they do not overlap. The period of totalisation and calculation of benefits shall be in accordance with the manner as prescribed in the agreement.

Transitional provisions

This agreement confers no right to a benefit for a period prior to its entry into force, except in the following cases:-

- A period of insurance completed under the legislation of either party before the entry in force of this agreement shall be taken into account for determining the right to benefits under the provision of this agreement.
- Where a benefit is due under this agreement even though it relates to an event which materialised prior to the date of its entry into force.
- Any benefit which has not been awarded, or which has been suspended by reasons of the nationality or place of residence of the person concerned shall, upon application, be awarded or resumed with effect from the date of entry into force of this agreement.

The takeaways

The agreement with Portugal is the eighteenth agreement to become operational. This will facilitate the movement of employees between India and Portugal by eliminating double contribution and/ or providing the benefit of exportability and totalisation of period for determining eligibility for pension benefits. This is a welcome development, and will potentially optimise costs for businesses operating in both countries. Employees who are mobile between India and Portugal and contributing to Indian provident fund should assess the impact on the current assignment policy, and may consider applying for early withdrawal of their provident fund accumulation on cessation of employment.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor.

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