

EPFO clarifies the definition of international worker for Indian employees

June 26, 2017

In brief

The Employees Provident Fund Organisation (EPFO) has recently issued a clarification on the definition of “International Worker” (IW) applicable to Indian employees who have been deputed for working outside India. As per the clarification, Indian employees will qualify as IW until they have worked/ are working without having obtained a certificate of coverage (COC), in a country with which India has a social security agreement (SSA). Upon repatriation to India, such employees will re-acquire the status of “Indian employee” and will not be governed by the special provisions as are applicable to IW.

In detail

Background

- In October 2008, the Government of India made social security scheme mandatory for cross border workers by bringing a new category of employees, IW, within the ambit of the Employees’ Provident Fund Scheme (EPF) and the Employees’ Pension Scheme (EPS). The term “IW” was defined to include an Indian employee who has worked/ or is going to work in a country with which India has a SSA and who is eligible to avail of the benefits under a social security programme of that country by virtue of such SSA.
- Thereafter, in the FAQs released in May 2012, the EPFO clarified that Indian employees proceeding to work in a foreign country with which India has a SSA will not qualify as IW provided they have obtained the COC from the EPFO. After obtaining the COC, as they are exempted from contributing to the social security system of the foreign country, they are not eligible to avail the benefits under the social security programme of that foreign country, and hence, will not qualify as IW. In other words, Indian employees proceeding to work/ working in a country with which India has a SSA will qualify as IW if they do not possess COC issued by the EPFO.
- In subsequent FAQs released by the EPFO in November 2012, and in response to question no. 22, it was clarified that once Indian employees attain the status of IW they will retain the status until they avail the benefits under the Indian social security schemes. In other words, once an IW always an IW.
- This was a hardship for repatriating Indian employees on account of higher contributions required and the challenges posed on account of restrictions on withdrawal of accumulated balance, as was applicable to IWs.
- The EPFO issued a clarification in this regard on 8 June, 2017 attempting to consider these IWs as Indian employees upon their repatriation to India on completion of overseas assignment. However, the wording of this clarification created further confusion. To correct this, the clarification dated 8 June, 2017 has now been withdrawn by the issue of a fresh clarification on 23 June, 2017.

The clarification

The EPFO has now clarified that an Indian employee qualifying as an IW, on account of working/ having worked in a country with which India has an SSA, will re-acquire the status of Indian employee upon repatriation to India after completion of overseas assignment. Accordingly, such employee will not be subject to the special provisions applicable to IW after repatriating to India.

The takeaways

The clarification has finally laid to rest the confusion that persisted with regard to repatriating Indian expatriate employees being subject to provisions for IW for contributions and corresponding withdrawal. This comes as a welcome relief to both employer and employees, as this has finally removed a genuine burden on both, which will lead to better compliance. However, this

clarification is silent on the aspect of higher contributions already made by such employees, and therefore, further clarity/ guidelines from the EPFO in the near future would be welcomed.

Let's talk

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

Our Offices

Ahmedabad

1701, 17th Floor, Shapath V,
Opp. Karnavati Club,
S G Highway,
Ahmedabad – 380051
Gujarat
+91-79 3091 7000

Hyderabad

Plot no. 77/A, 8-2-624/A/1, 4th
Floor, Road No. 10, Banjara Hills,
Hyderabad – 500034,
Telangana
+91-40 44246000

Gurgaon

Building No. 10, Tower - C
17th & 18th Floor,
DLF Cyber City,
Gurgaon – 122002
Haryana
+91-124 330 6000

Bengaluru

6th Floor
Millenia Tower 'D'
1 & 2, Murphy Road, Ulsoor,
Bengaluru – 560 008
Karnataka
+91-80 4079 7000

Kolkata

56 & 57, Block DN.
Ground Floor, A- Wing
Sector - V, Salt Lake
Kolkata – 700 091,
West Bengal
+91-033 2357 9101/
4400 1111

Pune

7th Floor, Tower A - Wing 1,
Business Bay, Airport Road,
Yerwada, Pune – 411 006
Maharashtra
+91-20 4100 4444

Chennai

8th Floor
Prestige Palladium Bayan
129-140 Greams Road
Chennai – 600 006
Tamil Nadu
+91 44 4228 5000

Mumbai

PwC House
Plot No. 18A,
Guru Nanak Road (Station Road),
Bandra (West), Mumbai – 400 050
Maharashtra
+91-22 6689 1000

For more information

Contact us at
pwctr.knowledgemanagement@in.pwc.com

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