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# ***EPFO introduces a limited period amnesty scheme for defaulting employers***

January 3, 2017

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## ***In brief***

To boost membership, the Employees Provident Fund Organisation (EPFO) had earlier proposed to start special enrolment campaign to enroll all eligible workers.

In this regard, the Ministry of Labour & Employment has recently issued notifications<sup>1</sup> introducing a limited period amnesty scheme (Employees Enrolment Campaign, 2017). This scheme is for employers who have not enrolled employees between 01 April, 2009 to 31 December, 2016, and who were entitled to become members of the principal schemes, i.e., Employees Provident Fund Scheme, 1952, Employees' Pension Scheme, 1995 and Employees Deposit Linked Insurance Scheme, 1976 provided under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (the Act).

Under the amnesty scheme, the employer can furnish a declaration in relation to such employees and remit the contribution along with applicable interest and nominal damages. Employers are not required to pay employee's share and any administrative charges for the past periods.

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## ***In detail***

Key features of the amnesty scheme are summarised as under:-

- The window under the amnesty scheme<sup>1</sup> is available for a limited period of three months, i.e., 01 January, 2017 to 31 March, 2017.
- Employer shall make a declaration for membership of employees who were required or entitled to become members of the fund between 01 April, 2009 and 31 December, 2016 but somehow could not be enrolled for any reason.
- The employer will have to pay its own share. The employee's share of provident fund contribution is not required to be paid where it has not been deducted from the wages of the employee.
- The declaration needs to be made to the Regional Provident Fund Commissioner (RPFC) in a form to be specified by the Central Provident Fund Commissioner (CPFC), specifying the date of eligibility for membership in respect of each employee.
- The employer shall, within fifteen days from the date of furnishing the declaration, remit the contribution along with interest (currently at 12% p.a.) in accordance with the provisions of the Act and the schemes applicable thereto.
- The employer is also required to pay nominal damages (@ Rupee 1 per annum). However, administrative charges for past periods are waived.
- The declaration can be made only in respect of employees who are alive as on 01 January 2017 and

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<sup>1</sup> Notification No F.No. S-35012/13/2016 – SS – II dated 30 December, 2016

no proceeding under section 7A of the Act or under paragraph 26B of the Employees' Provident Fund Scheme, 1952 or under Paragraph 8 of the Employees' Pension Scheme, 1995 have been initiated against the establishment or the employer, to determine eligibility for membership of such employees.

- The employer after complying with the declaration, shall file a return with the RPFC in such form as may be specified by CPFC.

### ***The takeaways***

The amnesty scheme provides an

one-time opportunity to employers to come clean by payment of the contribution along with applicable interest and damages. It is a welcome step as the EPFO has waived significant amount of damages which would have been payable otherwise at 5%-25% per annum depending upon the period of default.

Employers should be vigilant and diligently make full and complete disclosure of the facts, as any misrepresentation or suppression of facts and/ or information may result in the declaration being considered as void, and the person making such representation shall be liable to penal action.

Although it seems that the employer should also get protection from the prosecution provisions, the notification is silent on this aspect. Further, it appears that the scheme will also be available in relation to international workers. It would be helpful if the EPFO comes out with the clarification/ frequently asked questions on these aspects as well, to provide further clarity.

### ***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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