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India signs social security agreement with Japan

In brief

India signed a bilateral agreement on social security (the agreement) with Japan on 16 November 2012¹. The key features of the agreement are as follows:

General

- The agreement shall apply to all who are, or have been, subject to the legislation of India and/or Japan and others whose rights are derived from such persons.

- The agreement provides for equality of treatment between nationals who ordinarily reside in one country (India or Japan) with nationals of that country.
- Workers who are deputed from one country (India or Japan) to the other country for a period of up to five years to perform services for the same employer will be required to make social security contributions only in their home country.
- The period of detachment can be extended beyond five years if competent authorities of India and Japan mutually agree to do so.

¹ http://www.mofa.go.jp/mofaj/gaiko/treaty/shomei_75.html

- This provision will also apply in cases where workers are deputed from one country (India or Japan) to a third country and are subsequently deputed from the third country to India or Japan.
- A person who works as an employee on-board a ship flying the flag of India will be governed by the social security legislation of India and *vice versa*. However, where the employer has his or her place of business situated in the territory of India or Japan, the employee will be governed by the social security regulations of the state (India or Japan) where the employer has his or her place of business.
- Persons who are employed on an aircraft in international traffic will be governed by the social security provisions of the country in whose territory the employer is situated.

Payment of benefits abroad

- No restriction under the legislation of India or Japan shall apply on the entitlement or payment of benefits to a person solely because that person resides outside that contracting state (Japan or India).
- This provision will also apply in cases where workers are deputed from one country (India or Japan) to a third country and are subsequently deputed from the third country to India or Japan.
- Where any provision is introduced to restrict the exchange of currencies in either country (India or Japan), the government of both the countries shall immediately consult on measures necessary to ensure the payment under the agreement.

Totalisation of period of coverage

- The agreement provides for totalisation of period of coverage where the period of contribution in one country (India or Japan) will be included in the period

of contribution in the other country for determining the eligibility for pension benefits under the social security schemes of India or Japan, as the case may be (except for the period that overlap in both the countries, which will be taken as one).

Payment of lump sum benefits in India

- An individual is entitled to withdraw the full amount of provident fund under the Employees' Provident Fund Scheme, 1952 on ceasing to be an employee in a covered establishment.
- An individual is entitled to the benefit of withdrawal under the Employees' Pension Scheme, 1995 even if the minimum eligibility criteria (after including the period of totalisation) is not met.

Exemption for family members

- Where a person works in the territory of Japan and is subject to the social security regulations of India in accordance with the provision of this agreement, the spouse or children accompanying the person at their option shall be exempted from the Japanese pension system subject to fulfillment of requirements as specified in the social security legislation of Japan.

Conclusion

The agreement with Japan is the fourteenth such agreement to be signed which will facilitate the movement of employees and professionals between the contracting countries by eliminating the double contribution and/or providing the benefits of exportability of social security benefits and totalisation of periods for determining the eligibility for pension benefits.

Although the agreement is yet to be made operational, one can expect this coming into force very soon.

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