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## Definition of excluded employee expanded for special provisions applicable to international workers under the Indian social security regulations

### In brief

In 2008, the Indian Ministry of Labour and Employment (MLE), made it compulsory for international workers (IWs) to contribute to the country's social security schemes. However, IWs coming from a country with which India has a social security agreement (SSA) in force and holding the certificate of coverage (COC) are termed as 'excluded employee' and are exempt from contributing to the Indian social security schemes for the period and terms as specified in the respective SSA.

The MLE has recently issued a notification<sup>1</sup> and amended the term 'excluded employee' to also include IWs who are deputed from a country with which India

has entered into a bilateral comprehensive economic agreement prior to 1 October 2008. Such IWs will now qualify as excluded employee, if the following conditions are met:

- The IW is contributing to the social security programme of his or her home country, either as a citizen or resident.
- The relevant comprehensive economic agreement contains a clause on social security which specifically exempts natural persons of either country to contribute to the social security fund of the host country.

<sup>1</sup> Notification F. No. S-35025/09/2011/Ss-II dated 24 May, 2012 - Ministry of Labour and Employment. [Source : [http://www.epfindia.com/Circulars/Y2012-13/Coord\\_EPFSch\\_IW\\_3927.pdf](http://www.epfindia.com/Circulars/Y2012-13/Coord_EPFSch_IW_3927.pdf)]

### **Our comments**

The notification restricts this benefit to only those cross-border workers who are coming from a country with which India has a bilateral comprehensive economic agreement in force prior to 1 October 2008. IWs coming from Singapore will benefit from this amendment, as this is the only country that fits the requirement. Although India has similar agreements with other countries viz. Korea, Japan, Malaysia, etc., these agreements came into force after 1 October 2008 and hence IWs from these countries may not be covered under the amended definition of 'excluded employee' and will not be benefitted.

Detailed guidelines and rules are awaited on the implementation of the amendment i.e., what type of proof is needed as evidence of contribution to the home country social security or any filing or reporting requirements. One can hope that the Employee Provident Fund Organisation (EPFO) will soon come out with further clarifications on these aspects.

## Our Offices

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