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Adjustment of excess contributions made to pension fund of Indian employees holding certificate of coverage and deputed to a country with which India has a social security agreement is allowed

In brief

In October 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. In September 2010, the MLE further amended the scheme and withdrew the salary cap of INR 6,500 per month, applicable for allocating a part of the employer's contribution towards the pension fund of the IWs. This resulted in higher contribution (i.e. 8.33% of the entire salary) to the pension fund of the IWs.

On 25 May 2012, the Employees Provident Fund Organisation (EPFO) clarified in the form of frequently asked questions that the Indian employees, who avail

exemption from contributing in the host country by obtaining a certificate of coverage (COC) from India, will not fall under the category of IWs and the pension contribution of such employees should be limited to the wage ceiling of INR 6,500 per month.

Prior to the above clarification, in the absence of clear guidelines, a number of Indian companies considered their Indian employees (holding COC issued by the relevant authorities), sent on assignment to a country with which India has a social security agreement (SSA), as IWs and allocated a higher amount towards their pension fund calculated on their full salary rather than limiting the contribution to the wage ceiling of INR 6,500 per month.

The EPFO has now issued a clarification¹ allowing adjustment of excess contributions made to the pension fund from the provident fund, provided the concerned Indian employee holds a valid COC and is deputed to a country with which India has a SSA.

Our comments

This is a welcome step by the government as it will minimise the hardship faced by Indian companies. Now they can adjust the excess pension contribution made earlier to their provident fund contributions. For this purpose, the employer is required to file a request letter to the respective Regional Provident Fund Commissioner for adjustment of excess amount from pension to provident fund.

¹ Source: http://www.epfindia.com/Circulars/Y2012-13/IWU_16266.pdf

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