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GES NewsFlash

India – India Tightens Provident Fund Withdrawal Rules for International Assignees

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Overview

The Ministry of Labour and Employment (the Ministry) amended the Provident Funds Scheme in October 2008 to extend its applicability to "International Workers" (IWs). The provisions related to withdrawals from the Provident Fund (PF) were, until now, the same as that applicable to domestic employees. IWs were therefore entitled to withdraw the balance available at their credit in the PF account immediately upon completion of assignment in India. The Ministry has now amended the scheme to allow PF withdrawals only upon attainment of 58 years and has also modified the pension rules.

Key amendments to the Provident Fund Scheme

- The remuneration paid in foreign currency will be converted into Indian rupees by applying the telegraphic transfer buying rate of State Bank of India as on the last working date of the relevant month.
- Withdrawals are permitted only under the following circumstances:
  - On retirement from service after attainment of 58 years.
  - On retirement on account of permanent and total incapacity for work due to bodily or mental infirmity as certified by specified medical practitioner.
  - Upon satisfying the conditions specified in the Social Security agreement (SSA) entered into between the Government of India and the other country in respect of a member covered under such agreement.

Mode of Payment of Provident Fund

- Amounts payable to a member covered under an SSA entered into between the Government of India and the other country shall be as per terms specified in the agreement.
- In all other cases, the amount shall be payable to the credit of the

member's bank account in India.

Changes in the Pension Fund Scheme

Under the existing provisions of the Scheme, a part of the employer contributions (i.e. 8.33% of the Pay for this purpose Pay is limited to INR 6500p.m) is remitted to the Pension Fund and the Central Government makes additional contribution @ 1.16% on INR 6500. Under the new amendment, there will not be any contribution by the Central Government to the account of IWs. Members from countries with whom India does not have an SSA were entitled to withdrawal of pensions based on the principle of reciprocity as available to Indian employees in such country. This provision has now been withdrawn, thereby restricting the availability of benefits under EPS to members only from SSA countries.

These amendments are effective from 11 September 2010, the date of publication of the notification in the official gazette.

Deloitte's View

IWs from countries not covered by an SSA will now be eligible to withdraw accumulated balances in PF fund only on attainment of 58 years of age or on medical grounds as prescribed. Until now, these amounts were able to be withdrawn on repatriation. Further, the IWs are required to either retain the existing bank accounts in India or open a fresh bank account for the purposes of withdrawal which could pose practical challenges. The Government had decided to stop interest payments on non-operative PF accounts (which is currently at 9.5%) in India, We need to wait and see whether the accumulated balance of IWs who have repatriated out of India will be entitled to interest after repatriation until the date of payment. In summary, this amendment will inflate the cost structure of Indian assignment of IWs and the employers will have to factor this additional cost in their financial budget.

Source: Notification No F.No.R-11011/1/2007-SS-II(Vol-II) dated 3 September 2010

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