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GES NewsFlash

India - Government updates FAQ on Provident Fund for International Workers

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May 24, 2011

Background

The government of India has issued updates to the FAQ on the Provident Fund (PF) for international workers (IWs) on May 6, 2011 with a view to provide greater clarity on the applicability of PF regulations.

This FAQ addresses a few of the open issues that were present after the earlier notification tightening PF withdrawal provisions.

This alert sets out the key clarifications provided in the FAQ while highlighting the open issues.

Key clarifications

- No cap on salary for Employees' Pension Scheme (EPS) – The employer's contribution to EPS has to be calculated at 8.33% of the total salary of an IW as against the salary cap of $6,500 per month for domestic employees.
- The PF is to be computed on full salary in the case of Indian employees posted to countries with which India has a social security agreement (SSA). However, with a detachment certificate, the individual can claim exemption from the social security legislation of the host country.
- The detachment benefit is not applicable in the case of direct employment by an establishment in the overseas location. Consequently, direct hires will be covered by the host country's social security regulations.
- The pension benefit will be available to IWs from SSA countries based on the terms of the SSA even if they have not rendered the eligible service of 10 years. In other instances, the withdrawal benefit will not be available if the service is for a period less than 10 years.
- Amounts standing to the credit of the PF account of a member is payable if any one of the following conditions are fulfilled:
    - Retirement from service in the establishment at any time after 58 years of age
    - Retirement on account of permanent and total incapacity to work

due to bodily or mental infirmity duly certified
    - In accordance with the terms provided in an SSA.
- Even in the absence of an SSA, survivor benefits such as widow/widower pension, children/orphan pension, or nominee/parent pension are payable into the Indian bank account of the beneficiary in India.

Deloitte comments

- The terms "monthly pay," "full salary," and "total salary" are referred to in different places for determining the social security contribution. It is not clear whether these terms are interchangeable or are to be read verbatim.
- Indian employees posted to non-SSA countries and drawing a salary from the employer in India were covered by the Indian PF regime. The current update has omitted the words "drawing wages from an employer in India." It states that employees who qualified/contributed to Indian PF prior to their overseas posting will continue as members of the PF during such tenure. However, the FAQ is silent on whether this would warrant contribution from the employee in this period.
- The FAQ re-emphasizes the need to have a bank account in India to receive the accumulated balance in the PF account even for individuals who have repatriated out of India or their beneficiaries.

Source : To access the contents of the updated FAQs, please use the link
http://www.epfindia.com/faq_IntWorker.pdf

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