



Employees' Provident Fund Organisation issues clarification on definition of Indian International Workers

Background

Government of India (GOI) made fundamental changes in the Employees' Provident Funds Scheme, 1952 (EPFS) and Employees' Pension Scheme, 1995 (EPS) in October 2008 by bringing International Workers (IWs) under the purview of the Indian social security regime.

The definition of IWs under EPFS includes two categories:

- a) an Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
- b) an employee other than an Indian employee, holding other than an Indian passport, working for an establishment in India to which the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act) applies.

Further, the Employees' Provident Fund Organisation (EPFO) clarified in May 2012 through a circular¹ that an Indian outbound employee, who avails exemption from contributing in the other country by obtaining a Certificate of Coverage (COC) in India and contributes to the social security system in India, will not fall under the category of IW.

¹ EPFO Circular http://www.epfindia.com/site_docs/PDFs/Circulars/Y2012-2013/IWU_CompofIW_2816.pdf

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In context of the above background, EPFO has issued a Circular² with regard to clarification on the definition of IW for Indian IWs.

Key clarifications provided in the Circular

The circular emphasizes the definition of an Indian IW as:

"an Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement".

Further, EPFO has clarified that an Indian employee who, having been an International Worker as per the above definition and who returns to work in India will not be an IW.

Our comments

This is an important Circular which may have significant benefit for companies with sizable outbound employee population (such as software firms, BPOs, KPOs and other IT/ITeS companies etc.). The clarification provided by the Provident Fund (PF) authorities is a welcome development for the Indian industry. The establishments covered under the EPF Act may review their international assignment policies and compliances under the EPF Act.

² EPFO Circular http://www.epfindia.com/site_docs/PDFs/Circulars/Y2017-2018/IWU_Definition_InternationalWorker_5041.pdf

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