

TAX FLASH NEWS

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Employees' Provident Fund Organisation directs its field offices to pay Provident Fund withdrawal benefit to Singapore nationals on the date of leaving service in India

Background

In October 2008, Government of India (GOI) had made fundamental changes¹ in the Employees' Provident Funds Scheme, 1952 (EPFS) and Employees' Pension Scheme, 1995 (EPS) by bringing International Workers (IWs) under the purview of the Indian social security regime. Consequently foreign nationals who were working in an organisation covered under the Employees' Provident Funds and Miscellaneous Provisions Act (EPF Act) were required to pay the Provident Fund (PF) contributions.

However, certain expatriate employees were exempted from PF contributions in India subject to specified conditions. Such employees have been defined as 'excluded employees' under the EPFS. The Government of India has amended Para 83 of EPFS to enlarge the definition of 'excluded employee' by adding a new clause. According to the newly added clause, expatriate employees, deputed from a country with which India has entered into a bilateral comprehensive economic agreement prior to 1 October 2008, will also qualify as excluded employee. The said amendment in the EPFS gave the benefit of exemption from PF contributions in India for employees coming from Singapore, which have entered into a Comprehensive Economic Cooperation Agreement (CECA) / Comprehensive Economic Partnership Agreement with India before 1 October 2008.

With regard to withdrawal, the Government of India amended the refund clause by a notification² dated 5 October 2012.

According to the amended clause, IWs who are covered under a Social Security Agreement (SSA) between India and any other country can withdraw their accumulated Provident Fund (PF) balances under EPFS on ceasing to be an employee in an establishment covered under Employees' Provident Funds & Miscellaneous Provisions Act, 1952.

Recently, EPFO has issued a circular³ in regard to the settlement of claims and disbursement of benefits to the Singapore nationals at par with the IWs who are covered under the Social Security Agreement (SSA).

Highlights of the circular

- As per the circular dated 14 July 2017, it was clarified that Singapore citizens working in India purely as temporary workers and who do not hold the status of permanent residents in India are to be treated as "Excluded Employee" under the provisions of Para 83 of the EPFS as applicable to IWs.
- To facilitate the CECA provisions, the definition of excluded employee has been expanded. The new provisions states as follows: *an International Worker, who is contributing to a social security programme of his country of origin, either as a Citizen or resident, with whom India has entered into a bilateral Comprehensive Economic Cooperation Agreement containing a clause on social security prior to 1 October 2008, which specifically exempts natural persons of either country to contribute to the social security fund of the host country.*

¹ Notification GSR 706 (E) dated 01 October 2008 - Notified in the Gazette of India

² Notification GSR 744 (E) dated 05 October 2012 - Notified in the Gazette of India
Accessed on 17 November 2021

³ EPFO Circular - File No. IWU/7(14)2008/Singapore/3130 – dated 21 October 2021
Accessed on 17 November 2021

- In order to overcome the difficulties faced in ascertaining whether the incoming employee was contributing to a social security programme in Singapore, a new form has been finalised in a bilateral meeting between India and Singapore. This form is a certification of an employee about contributing to the Social Security System of home country.
- In view of this development, EPFO has advised its officials to regulate the receipt of contributions taking into consideration the certificate enclosed in the circular, received through the employer of such workers, either in physical or electronic form. The certificates as per the agreement can be issued by any of the authorities namely the High Commission of the Republic of Singapore in India, Consulates – General of the Republic of Singapore in India and Singapore’s Ministry of Trade and Industry.
- The legal division of the EPFO Head office has opined that the India Singapore CECA embeds SSA in itself and Singapore nationals fall under the scope of substituted Para 69(4) under para 83 of the EPFS. Accordingly, claims submitted by Singapore nationals can be processed treating India- Singapore CECA at par with the SSAs signed by India.



Our comments

The circular issued by EPFO is a welcome step in the direction of providing the benefits of exemption to the Singapore nationals who are covered under the India-Singapore CECA.

The requisite form laid down in the circular should be provided by the establishments to EPFO for availing the benefit of exemption from PF contribution for Singapore nationals covered under India-Singapore CECA.

The new clarification in refund condition will ease the hardships for expatriates who are covered under India-Singapore CECA. Now, such expatriates may withdraw their PF accumulations immediately on cessation of employment in India from establishments covered under EPF Act and thus, will not have to wait till 58 years of age to obtain the refund of their PF accumulations.

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