HR Law Hotline

September 24, 2014

INDIA'S SOCIAL SECURITY SCHEMES FOR EMPLOYEES AMENDED: WAGE CEILING INCREASED

- Wage ceiling for mandatory subscription and contribution for employees' provident fund, pension fund and insurance increased from INR 6,500 to INR 15,000 per month.
- A minimum monthly pension of INR 1000 has been prescribed.
- The amendments have taken effect from September 1, 2014.

INTRODUCTION

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 ("**EPF Act**") is India's most important social security legislation for employees. The scope and benefits under the schemes framed under the EPF Act have been enhanced with effect from September 1, 2014.

The Ministry of Labour and Employment has issued notifications[1] amending the Employees' Provident Fund Scheme, 1952 ("**Provident Fund Scheme**"), the Employees' Pension Scheme, 1995 ("**Pension Scheme**") and the Employees' Deposit-Linked Insurance Scheme, 1976 ("**Insurance Scheme**"). These amendments are in tune with the Union Budget speech of the Hon'ble Union Minister of Finance, Mr. Arun Jaitley for the financial year 2014-2015[2].

KEY AMENDMENTS AND RELATED ANALYSIS

A. Provident Fund Scheme

- The wages for being eligible to benefits under the Provident Fund Scheme has been increased to INR 15,000 (approx. US$ 250) per month from INR 6,500 (approx. US$110) per month[3]. As a result, employees drawing wages (calculated as basic wages + dearness allowance + retaining allowance) more than INR 6,500 per month but less than INR 15,000 per month, who were previously excluded from the purview of the Provident Fund Scheme, are now required to be covered for provident fund contributions under the Provident Fund Scheme.
- The definition of '*excluded employee*'[4] has been amended to exclude *employees drawing wages exceeding INR 15,000 per month* from the provisions of the Provident Fund Scheme. Accordingly, all employees drawing wages more than INR 15,000 per month (and who are not members of the Employees Provident Fund) shall continue to be exempted from mandatory coverage.
- In order that an employee earning more than INR 15,000 (i) be enrolled as a member of the Employees Provident Fund; or (ii) contribute on more than INR 15,000 (if the employee is already a member of the Employees Provident Fund), both the employer and the employee shall make a joint request (in writing) to an officer not below the rank of an Assistant Provident Fund Commissioner who shall have the authority to permit the same.[5]

B. Pension Scheme

- The wage threshold for determining the maximum pensionable salary has been increased from INR 6,500 to INR 15,000 per month.
- The Pension Scheme has been amended to the effect that new members (joining on or after September 1, 2014) who are drawing wages above INR 15,000 per month shall not be permitted to voluntarily contribute to the Pension Scheme[6].
- The amendment carves out an exception for members who have already been contributing to the Pension Scheme above INR 6,500 per month (as on September 1, 2014), by enabling them to exercise a fresh option within 6 months to contribute to the Pension Scheme above the statutory ceiling of INR 15,000[7] per month.
- In the event that the member fails to exercise the option within the prescribed period, it shall be deemed that the member has not opted to contribute over the wage ceiling. As a result, any contributions to the Employees' Pension Fund over the wage ceiling shall be diverted to the Employee's Provident Fund account of the member[8].
- In the event that a member exercises the option to contribute over the wage ceiling, the member shall also be required to contribute at the rate of 1.16% on the monthly salary exceeding INR 15,000 as an additional contribution from and out of the contributions payable by the employees for each month[9].
- In cases where the wages of a member exceeds INR 15,000 per month, the contribution payable by the employer and the Central Government is limited to the amount payable on his pay of INR 15,000[10].
- The 'pensionable salary' shall now be computed as the average of the monthly pay drawn during the contributory

Research Papers

Handbook on New Labour Codes
April 29, 2024

Compendium of Research Papers
April 11, 2024

Third-Party Funding for Dispute Resolution in India
April 02, 2024

Research Articles

Private Client Insights - Sustainable Success: How Family Constitutions can Shape Corporate Governance, Business Succession and Familial Legacy
January 25, 2024

Private Equity and M&A in India: What to Expect in 2024?
January 23, 2024

Emerging Legal Issues with use of Generative AI
October 27, 2023

Audio

Third-Party Funding: India & the World
April 27, 2024

IBC allows automatic release of ED attachments: Bombay HC reaffirms
April 15, 2024

The Midnight Clause
February 29, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Q&A 2024 Protocol to the Mauritius India Tax Treaty
April 22, 2024

Boost to India's Space Potential: India Liberalizes Foreign Direct

period of service in the span of 60 months preceding the date of exit from the membership of the Employees' Pension Fund. That said, the *pensionable salary* shall be determined on a pro-rata basis for the pensionable service up to September 1, 2014, subject to a maximum of INR 6,500 per month and for the period thereafter, at the maximum of INR 15,000 per month[11].

The Ministry of Labour and Employment has through a separate amendment[12] prescribed a minimum monthly pension of INR 1,000 (approx. US$17) which shall include any relief payable to an existing or future member for the financial year 2014- 2015[13].

C. Insurance Scheme

- The limit on contributions payable by the employer has been increased from the amounts payable on a monthly pay of INR 6,500 to INR 15,000.[14]
- In case of a member's death, the maximum sum assured has been increased by 20% in addition to the benefits already admissible[15].

PREPARATORY ACTIVITIES

The Employees Provident Fund Organization ("**EPFO**") had previously issued instructions to all the EPFO field offices directing them to undertake certain preparatory activities in connection with the increase in the statutory wage ceiling. The designated enforcement officer for each establishment has been directed to inspect and verify the total number of employees drawing monthly wages above INR 6,500 and up to INR 15,000 in order to assist the establishments in implementing the revised rate of contribution once the Notification came into effect.

IMPLICATIONS

The amendments to the schemes under the EPF Act with respect to increase in wage ceiling for coverage and computation of benefit have been in the pipeline since last year[16]. The ceiling was previously raised in 2001 from INR 5,000 to INR 6,500 per month. The EPF Act has now been brought in line with the Employees' State Insurance Act, 1948 ("**ESI Act**") in terms of the salary threshold.

- *Enhanced coverage and benefit*: Employees earning over INR 6,500 but less than INR 15,000 per month shall now be eligible to social security benefits under the EPF Act. Since the threshold for contribution has also been increased from INR 6,500 to INR 15,000 per month, the benefit accruing to employees shall stand increased. It is pertinent to note that the EPFO has decided to pay interest at the rate of 8.75% on provident fund accumulations for the year 2014-2015[17].
- *Increased costs for employers*: The increased wage ceiling has increased (by more than double) the wage costs to be borne by employers. It is pertinent to note that the EPF Act prohibits an employer from reducing the wages or benefits in the nature of an old age pension, gratuity, life insurance or provident fund to which an employee is entitled to on account of the employer's increased liability to make contributions under the EPF Act[18].
- *Lower take-home pay*: The obligation of the employees to contribute 12% of the basic wages up to INR 15,000 per month is likely to result in reduction in the employee's take-home pay.
- *Timeline:* While the increase in wage ceiling for benefit and coverage was anticipated, it was hoped that the government would allow sufficient time for employers to restructure their compensation packages and ensure compliance with the amended law. Unfortunately, the government has not provided any window period for the same.

– **HR Law (Employment & Labour) team**

You can direct your queries or comments to the authors

[1] Notifications dated August 19, 2014 and August 22, 2014
[2] http://www.indiabudget.nic.in/ub2014-15/bs/bs.pdf
[3] Paragraph 2 Sub Paragraph (f) of the EPF Scheme
[4] Ibid
[5] Paragraph 26 Sub Paragraph (6) of the EPF Scheme
[6] Paragraph 6 Sub Paragraph (a) of the Pension Scheme
[7] Paragraph 11 Sub Paragraph 4 of the Pension Scheme
[8] Ibid
[9] Ibid
[10] Paragraph 11 Sub Paragraph (3)
[11] Paragraph 11 Sub Paragraph (2) of the Pension Scheme
[12] Employees' Pension (Second Amendment) Scheme, 2014
[13] Paragraph 7A of the Pension Scheme
[14] Amendment to Proviso to Paragraph 7 Sub Paragraph 1 of the Insurance Scheme by way of Employees' Deposit Linked Insurance (Amendment) Scheme, 2014
[15] Paragraph 22 of Insurance Scheme
[16] http://articles.economictimes.indiatimes.com/2013-10-07/news/42794502_1_lakh-crore-finance-ministry-labour-ministry
[17] http://www.livemint.com/Politics/dBWMCL2Z0yZ1EDOgHFcCuO/EPFO-to-pay-875-interest-on-PF-deposits-in-201415.html?utm_source=copy
[18] Section 12

Investment
April 03, 2024

Cyber Incident Response Management
February 28, 2024