

# International Labor & Employment Law Committee Newsletter

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## India

### **Expatriates in India Contributing to Social Security Plan in Another Country and Covered by Bilateral Economic Agreement with India Now Recognized as Exempt from Social Security Contributions in India**

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By way of a notification dated May 24, 2012, the Indian Ministry of Labour and Employment has amended the definition of 'excluded employee' under the Employees' Provident Fund Scheme, 1952 (EPF Scheme). As a result of the amendment, an additional clause has been inserted to cover exclusions and exemptions under comprehensive economic partnership agreements that India has with certain countries such as Singapore. It appears that this amendment has been made to remedy an oversight in the prior wording of the statute that exempted some expatriate employees under certain social security agreements with India but not others.

Pursuant to the Notification, the statutory definition of 'excluded employee' now includes two parts. The new part of the exemption covers:

An international worker who is contributing to a social security programme of his or her country of origin or residence, with which India has entered into a bilateral comprehensive economic agreement containing a clause on social security prior to October 1, 2008, which specifically exempts natural persons of either country to contribute to the social security fund of the host country.

The earlier exemption covered only:

An international worker who is contributing to a social security programme of his or her country of origin, either as a citizen or resident, with which India has entered into a social security agreement on reciprocity basis and

enjoying the status of detached worker for the period and terms as specified in such agreement.

The Government of India had in October 2008 amended the schemes under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, India's key social security enactment, to bring international workers (expatriates) within the ambit of the social security statute and thereby require them to make provident fund and pension contributions in India, with the exception of the exclusions under social security agreements as noted above and the now supplemented exclusions under the economic partnership agreement.

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