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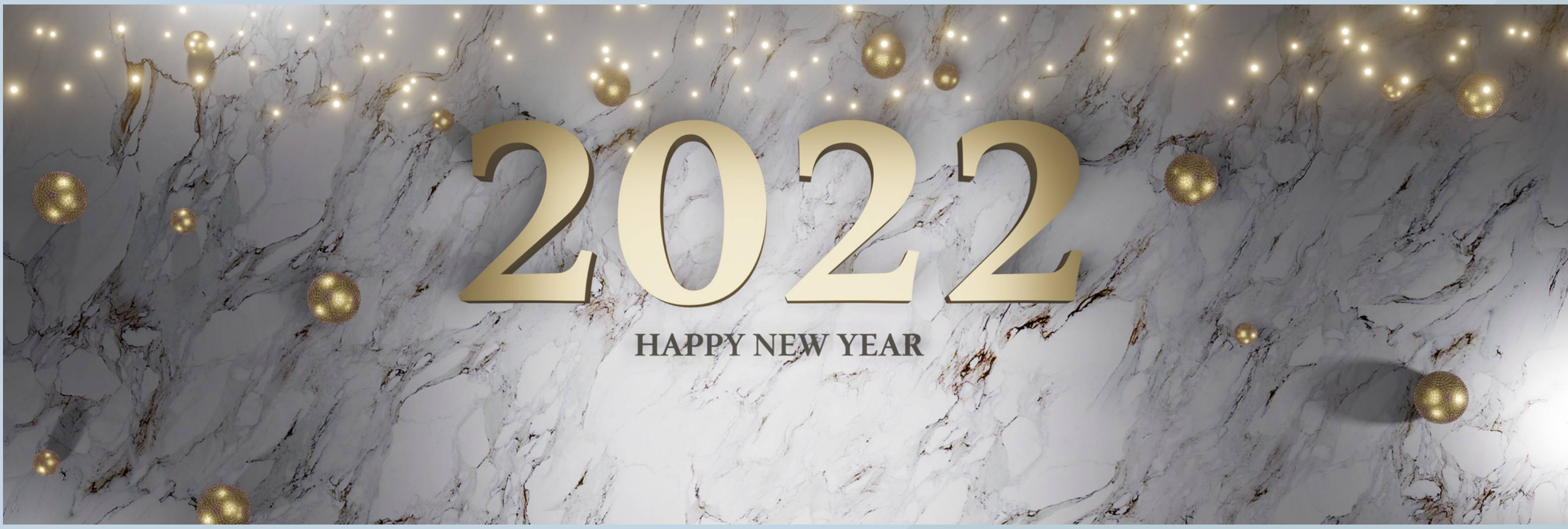

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UCS POV | BALA HARISH
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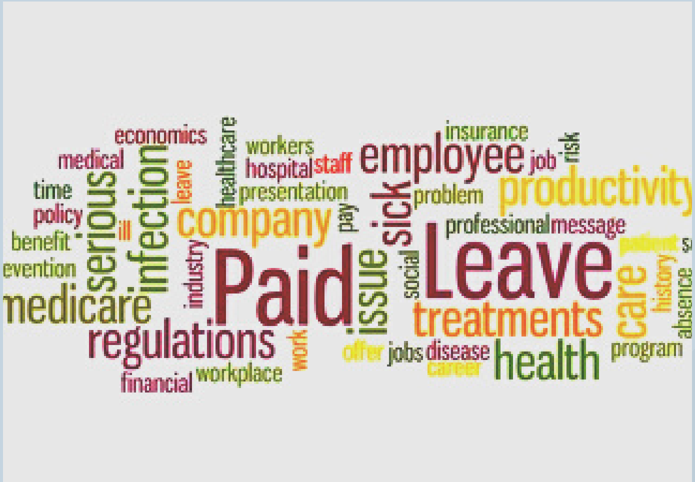
Know More About Earned/Privilege Leaves

The Shops and Establishment Act prescribes three categories of leaves as Earned leave (annual leave), Casual leave, and Sick leave and the same varies in each state. The conditions of leave benefits provided to employees in commercial establishments are regulated by the Shops & Commercial Establishment Acts enacted by different States. An Earned (annual) leave is a planned leave and the employee should apply for the leave in advance. Sick leave is only on the ground of sickness and employees need to submit the medical certificate for availing sick leaves. Casual leave is only in case of any personal/family exigency and no prior approval is required for Casual leave and such leave cannot be more than 2 days at any time. The following are a few points to keep in mind regarding such leaves:

Quantum of Earned leave: As per the Act, an employee is entitled to 1 day of paid annual leave for every 20 days of work performed if he/she is an adult worker, and 1 day of paid annual leave for every 15 days of work for a young person (i.e., 15-18 years of age).



Many states like Karnataka, Maharashtra, Jharkhand, Odisha, Himachal Pradesh, etc. have adopted a similar provision for earned leave entitlement.

The enactment in these states does not provide a binary answer for determining how much earned leave credit an employee is entitled to. For this purpose, it is important to understand the key term "Work Performed". The earned leave arrival is based on the exclusion of Loss of Pay (LOP) days alone. Hence if any employee has received a salary for all 365 days, then it shall be considered as "Work Performed" by the employee. In such a case the earned leave should be 18 days. Only those days must be excluded from earned leave if there is a loss of pay.

A few choose to have a different opinion based on the interpretation provided by external legal experts and management discretion is advised on such decisions.

An Approach To Carry Forward Earned Leave: As per the respective state S&E Act, the un-availed earned leave can be carried forward up to the maximum of 30/45/60/90 days in the succeeding year. The respective state government have given an accumulation limit for earned leave and the same is to ensure that the employer may extend the earned leave benefit to the employees rather than accumulating such earned leave as these are due to the employees every year. Besides the Act allows an employee whose request for leave has not been approved on account of unavoidable circumstances, to accumulate the un-availed leave without any limit. Under a few states' S&E Acts, such leave can be availed in not more than three installments in any year.

Leave Encashment:
The encashment of leave is not expressed but implied as per the provisions of the Shops & Commercial Establishments Act. The earned leave is granted under all the state acts with Full Pay i.e., gross wages.

In addition, irrespective of the carry forward cap of 45 or 60 days, all employees who quit their jobs would be entitled to accrued leave from previous calendar years as well as leave attributable to the period of work during the calendar year in which they quit.

Respective state government Shop and Establishment Act/Rules should be referred for adherence.

Four Labour Codes Likely to Be Implemented by FY23 As Many States Ready Draft Rules

The four labor codes on wages, social security, industrial relations, and occupation safety, health, and working conditions are likely to be implemented by the next fiscal year as at least 13 states have pre-published draft rules on these laws, a senior official said. The Centre has already finalized the rules under these codes and now states are required to frame regulations on their part as labor is a concurrent subject. A senior official said that the four labor codes are likely to be implemented by the next fiscal year. "The four labor codes are likely to be implemented in the next financial year of 2022-23 as a large number of states have finalized draft rules on these.

The Centre has completed the process of finalizing the draft rules on these codes in February 2021. But since labor is a concurrent subject, the Centre wants the states to implement these as well in one go," the official said.

Union Labour Minister *Bhupender Yadav* in a reply to the Rajya Sabha earlier this week had said that the Occupational Safety, Health and Working Conditions Code is the only code on which the least number of 13 states have pre-published the draft rules. The highest number of draft notifications are pre-published on The Code on Wages by 24 states/UTs followed by The Industrial Relations Code (by 20 states) and The Code on Social Security (18) states. In his reply to the Upper House, the minister explained that labor is in the Concurrent List of the Constitution and under the Labour Codes, rules are required to be framed by the central government as well as by the state governments. The central government and some of the States/UTs have pre-published rules under the four labor codes.

The central government has notified four labor codes, namely, the Code on Wages, 2019, on August 8, 2019, and the Industrial Relations Code, 2020, the Code on Social Security, 2020, and the Occupational Safety, Health and Working Conditions Code, 2020 on September 29, 2020.

However, the Centre as well as states are required to notify rules under the four codes to enforce these laws in respective jurisdictions. Under the Codes, the power to make rules have been entrusted to the Central Government, State Government, and appropriate Government and there is a requirement of publication of Rules in their official Gazette for a period of 30 or 45 days for public consultation. As per the minister's reply, draft rules are pre-published by 24 states on The Code on Wages. These states are Madhya Pradesh, Bihar, Uttarakhand, Karnataka, Uttar Pradesh, Gujarat, Odisha, Punjab, Chhattisgarh, Tripura, Rajasthan, Jharkhand Arunachal Pradesh, Himachal Pradesh, Haryana, Maharashtra, Goa, Mizoram, Telangana, Assam, Manipur, UTs of Jammu and Kashmir, Puducherry, and GNCT of Delhi.

Similarly, the 20 states which have pre-published draft rules on The Industrial Relations Code are Madhya Pradesh, Bihar, Uttarakhand, Uttar Pradesh, Gujarat, Odisha, Punjab, Chhattisgarh, Tripura, Karnataka, Jharkhand, Arunachal Pradesh, Haryana, Himachal Pradesh, Telangana, Manipur, Assam, Goa, UTs of Jammu and Kashmir and Puducherry. As many as 18 states have pre-published draft rules on The Code on Social Security. These states are Madhya Pradesh, Bihar, Uttarakhand, Uttar Pradesh, Punjab, Chhattisgarh, Odisha, Jharkhand, Arunachal Pradesh, Haryana, Maharashtra, Tripura, Himachal Pradesh, Manipur, Assam, Gujarat, Goa and UT of Jammu and Kashmir. As many as 13 states have pre-published draft rules on The Occupational Safety, Health and Working Conditions Code. These are Uttarakhand, Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Odisha, Arunachal Pradesh, Haryana, Jharkhand, Punjab, Manipur, Bihar, Himachal Pradesh and UT of Jammu and Kashmir.

Source: Business Today

Govt Defines Gig Workers, Underlines Welfare Fund for Unorganised Labourers

The Union government on December 20 said it has defined gig workers, but not gig economy. It also underlined that a welfare fund for gig and platform workers is on the anvil with contributions from related companies. The Code on Social Security recognizes gig workers as a new occupational category and where there is no traditional employee and employer relationship. “It defines the gig worker as a person who performs work or participates in work arrangement and earns from such activities, outside of the traditional employer-employee relationship,” the Union labor ministry informed Parliament.

The ministry defined a platform worker as “a person engaged in or undertaking platform work”.

It, however, said that the code that envisages various welfare benefits for platform and gig workers, but “does not define gig economy”. To be sure, none of the four codes on wages, social security, industrial code, and occupational safety has come into effect despite being passed by Parliament more than a year back. This is due to several reasons such as the slow pace of rule framing, reservation on some of the provisions by both employers and employees, and the upcoming Assembly elections in key states. “The code envisages various benefits for gig workers, including life and disability cover, accident insurance, health and maternity, old age protection, creche, and other benefits,” the labor ministry said. So far, 727,927 gig workers have registered with the government’s ‘e-shram’ portal, the informal database established by the government and allowed registration since the last week of August.

All eligible registered unorganized workers, including gig workers, are entitled to get the benefit of an accidental insurance cover of Rs 2 lakh for a year free of cost through the Pradhan Mantri Suraksha Bima Yojana (PMSBY). On payment of wages, the government said the Code on Wages, 2019, provides for universal minimum wage and floor wage across organized and unorganized sectors which include gig workers. "It, inter alia, provides for fixation of minimum rate wages on a time work basis with any one or more wage periods, namely by the hour, by the day, or by the month. Besides, the code mandates the government to fix the floor wage applicable across the central and the state spheres." The labor and employment ministry reiterated that a Social Security Fund has also been planned and one of the sources of fund, is the contribution

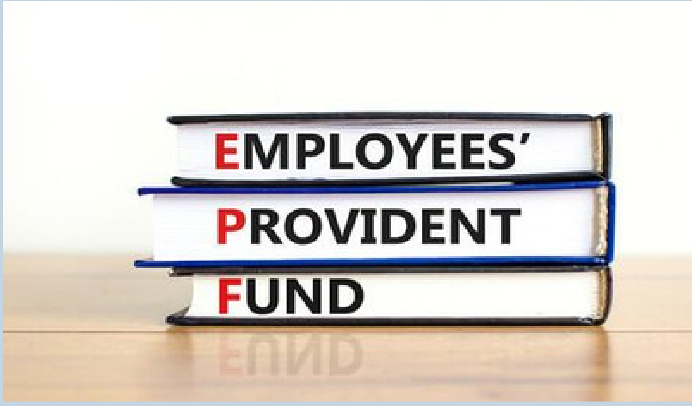
from aggregator between 1% and 2% of its annual turnover, subject to the limit of 5% of the amount paid or payable by an aggregator to such workers, it said. The ministry, however, underlined that no scheme has been finalized as the provisions under the code relating to gig and platform workers have not come into force.

Source: www.moneycontrol.com

PF New Rules: EPF-Aadhaar Linking Must to Adding Nominees, Key Changes to Know

The Employees Provident Fund Organisation has over the year updated many of its policies which members have to follow starting from next year or from now on. The Employees Provident Fund or EPF is an indispensable part of any corporate employee's work life, and the members have to abide by the rules to get their provident fund (PF) money in time. Also, if someone does not follow the guidelines, his or her PF contribution might stop which may come as a huge burden. Retirement body Employees Provident Fund Organisation or EPFO, backed by the government, is a scheme that accumulates a part of the employee's salary as well as a certain amount from the employer's contribution to disburse it post-retirement. As mentioned above, this year the EPFO has updated many of its schemes. These include PF-Aadhaar linking, maintenance of two PF accounts for some employees, rise in insurance benefit under EDLI scheme, and adding a nominee to the employee's PF account among others.

Here is a closer look at all the changes that your PF account should be updated with PF-Aadhaar Linking: From November 30, 2021, the EPFO has made it mandatory to link your PF account's Universal Account Number (UAN) with Aadhaar. The EPFO had earlier said it will be effective from June this year. There are many consequences you might face if you do not link your UAN with your Aadhaar number. For one, you will stop getting the employer's contribution if you do not link the accounts. The employees will also face a delay in remittance till the time he or she links the accounts, and the data is approved by the employers and authorities. Additionally, they will not be able to withdraw the PF money from their accounts.



Adding Nominee to PF Account: All members of the EPFO are required to add a nominee to their PF accounts by December 31 this year, the retirement body has announced. If this is not done, the employees will lose out on several benefits. "It is critical for subscribers to register nominations to care for their spouse, children, and parents and to safeguard them through online PF, pension, and insurance," said EPFO in a statement. Filing of nomination is aimed at ensuring benefits for the dependents of the PF account holder in event of a mishap with him or her.

Two PF Accounts for Some Employees: The Central Board of Direct Taxes (CBDT) had earlier in the year announced a new set of rules, according to which if an individual's EPF contribution goes above Rs 2.5 lakh in a given financial year, they will need to have two separate Provident Fund (PF) accounts.

This came into effect from September, where the two accounts are to have taxable and non-taxable contributions separately. This has been put in place to ensure the streamlined facilitation of calculations for the taxpayer. These new sets of regulations were bracketed under the Income-tax (25th Amendment) Rules, 2021.

Hike in Insurance Benefits Under EDLI Scheme: The EPFO in a move to help thousands of families of Covid-19 victims during the second wave has come up with a policy to hike insurance benefits. Under this, the retirement body increased the maximum assurance benefit under the Employees' Deposit Linked Insurance (EDLI) scheme to Rs 7 lakh from Rs 6 lakh. "Enhanced social security is sought to be provided to the workers without any additional cost to the employer," the labour ministry had said at the time. The minimum threshold however has been left unchanged at Rs 2.5 lakh.

Source: News 18

4-Day Work Week, Less Salary, More PF: What India's New Labour Codes May Bring In 2022

Under the new codes, several aspects related to employment and work culture, in general, might change including the take-home salary of employees, working hours, and the number of weekdays. The labor codes were to be implemented from April 2021 this year, however, as labor is a concurrent subject, both the Centre and states have to notify rules under these four codes to make them the laws of the land. Many states are in the process of finalizing draft rules in this regard. "*The four labor codes are likely to be implemented in the next financial year of 2022-23 as a large number of states have finalized draft rules on these*," the senior government official was quoted by PTI as saying. "*The Centre has completed the process of finalizing the draft rules on these codes in February 2021. But since labor is a concurrent subject, the Centre wants the states to implement these as well in one go.*"

If the new labor codes are implemented, employees in India may likely be able to enjoy a four-day workweek from next year, as opposed to the current five-day workweek.

It will also drastically alter the way industrial houses treat their employees and also impact the working hours, take-home salary, and other rights of employees. For instance, once the wages code comes into force, there will be significant changes in the way basic pay and provident fund of employees are calculated.

Less in-hand salary, more money in PF: An important change that will be introduced in the wake of the 4-day workweek, would be a reduction in the take-home pay of employees. According to reports, employees and firms will have to bear a higher provident fund liability, hence there will be more money in PFs and less in-hand salary.

For this, major changes will be introduced in the way an employee's basic pay and PF are calculated. Half of the salary would be basic wages and allowances would be restricted to 50%, as per reports. Contribution to provident fund is calculated as a percentage of basic wage that involves the basic pay and dearness allowance (DA). Under the present regulations, an employer's percentage-based contribution towards the PF balance depends on the employee's basic pay and dearness allowance. Given that basic pay would be increased, more PF will be deducted, thereby bringing down the in-hand salary of the employee.

4-day workweek: The new labor codes may usher in a four-day workweek, as opposed to the current five-day workweek from 2022-23. With this, an employee will be able to enjoy a 3-day holiday/week, however, they will have to work for 12 hours on those four days to keep the weekly work hours in check. The Labour Ministry has asserted that even if the proposal comes through, the 48-hour weekly work requirement has to be met.

Source: India.Com

Modi Govt Assures Savings in EPF Will Be Safe, Despite Reliance Capital's Payment Default

The Union labor and employment ministry have assured that the savings of subscribers in the Employees' Provident Fund (EPF) scheme will be protected, irrespective of the returns made on investments by the organization that runs the scheme (EPFO) in corporate bonds of private companies.

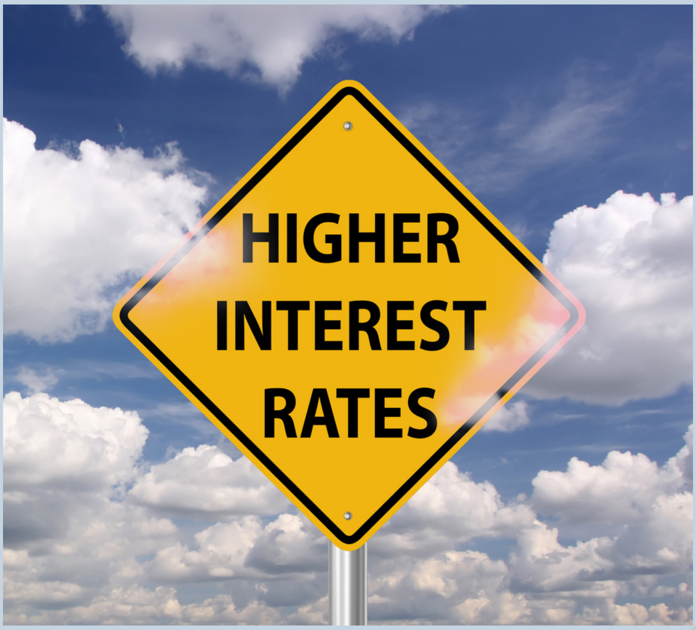
This is after Anil Ambani-owned Reliance Capital defaulted on its interest payments to the EPFO. According to a senior official, who spoke to The Print on the condition of anonymity, the government always has a buffer or surplus from the returns it makes on the EPFO's investments, which ensures that employees' savings remain protected. "*At least 80% of the corpus of the EPFO is invested in safe assets like public sector bonds and government securities, which do not default. 20% of the investments has to be in corporate bonds, including those issued by public sector undertakings, on which there is very high interest that we earn, so there is enough buffer to cover the liabilities,*" the official said.

The case in point here is that of Reliance Capital. Recently Minister of State for Finance Dr Bhagwat Karad told the Rajya Sabha that the firm, in whose non-convertible debentures (NCDs) EPFO had invested Rs 2,500 crore, has defaulted on interest payments of Rs 536.64 crore as of 30 November 2021. Karad, however, said there has been no default on the principal payments of these NCDs. "*Ministry of Labour and Employment has further informed that as the maturity date of these investments has not become due till date, there is no default on principal,*" Karad had said. The Union labor ministry has fixed 8.5% interest for the year 2020-21 to subscribers of the EPF scheme, resulting in a pay-out of around Rs 70,000 crore as interest, leaving a surplus of Rs 1,000 crore. This was mentioned at the meeting of the central board of trustees of the EPFO in November 2021, according to government sources.

Default on interest payments: Non-convertible debentures are debt instruments that provide a high rate of interest. Companies generally use these instruments to raise money to accumulate the long-term value of their assets.

The first time Reliance Capital defaulted on these interest payments was in October 2019. Since then, various regulatory actions have been taken against the company. Last month, the Reserve Bank of India superseded the board of Reliance Capital and appointed Nageswar Rao Y., former executive director of the Bank of Maharashtra, as the administrator of Reliance Capital. The RBI has also applied to the Mumbai bench of the National Company Law Tribunal (NCLT) to initiate insolvency proceedings against the company. The process will take 330 days according to government rules.

No investment in private sector bonds: According to the investment pattern mandated by the government, EPFO has to invest a minimum of 20% of its incremental inflows in corporate bonds, including those issued by public sector undertakings.

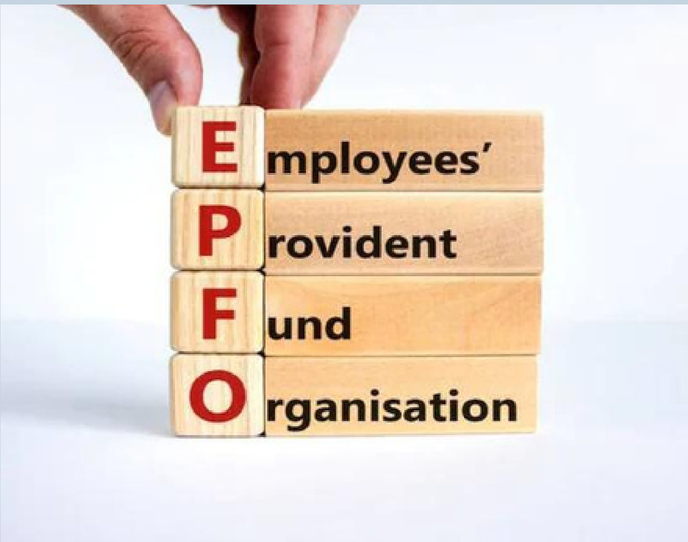


However, last year in August, after the collapse of Infrastructure Leasing & Financial Services Ltd (IL&FS) and Reliance Capital defaulting on repayments, the retirement fund body's board decided to withhold any further investment in bonds issued by private sector companies. The board had also decided that EPFO will invest in bonds of only those public sector units that meet certain rating criteria.

Source: The Print

EPFO Extends the Last Date for the E-Nomination Facility

Retirement fund body Employees' Provident Fund Organization (EPFO) has advised its account holders to do e-nomination. The retirement fund body in a tweet has said that the account holders will be able to add nominees through the e-nomination facility even after 31 December as well.

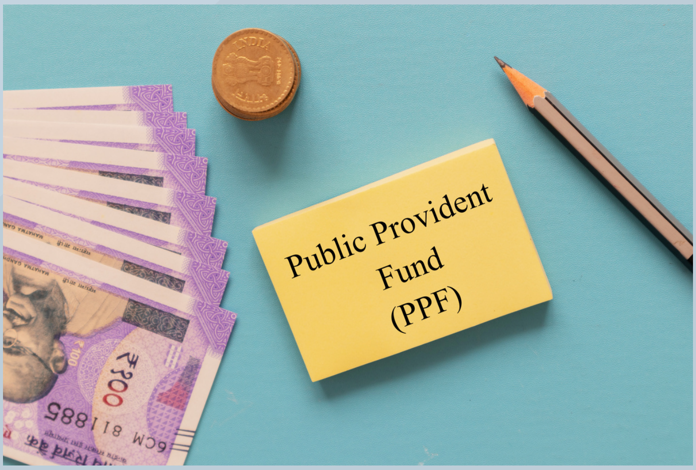


"The provisional payroll data of EPFO released on 20th December 2021 highlights that EPFO has added 12.73 lakh net subscribers during the month of October 2021," a labour ministry statement said. According to the statement, year-on-year comparison shows an increase of around 10.22% in net payroll additions in October, 2021 as compared to 11.55 lakh net subscribers added during October 2020. Of the total 12.73 lakh net subscribers added, 7.57 lakh new members have been enrolled under EPF & MP Act, 1952 for the first time.

Source: Livemint

Earlier, it was reported that the last date to add nominees through the e-nomination was supposed to end on 31 December. Earlier, many users reported that the portal of EPFO was down as people tried to update the nominee details in their respective PPF account.

According to EFPO, one should file e-Nomination because it helps in getting Provident Fund (PF), Pension (EPS) and Insurance (EDLI) benefits easily member's death and also facilitate nominee to file online claims. Meanwhile, EPFO has added 12.73 lakh net subscribers in October, registering an increase of 10.22% compared to the same month last year, according to the latest payroll data.



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