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EPFO Clarifies The Principal Employer to Ensure Vendor Compliances

The Employees' Provident Fund Organisation (EPFO) has recently issued a notification under the EPF Act requiring employers to ensure that all the contractors engaged in the principal employer's establishment are compliant. The EPFO has directed their respective field officers to ensure that the principal employers declare their contractors and has issued a notification in this regard on 27th April 2022. Furthermore, the respective RPFC is sending notices to establishments in their respective jurisdiction requesting the contractor's details. On receipt of such notices, the principal employer must submit the details of the contractors engaged by them (the list of contractors with their PF Reg. No., Month-wise headcount, the contract period, the last wage month remittance etc.).

In the year 2017, the EPFO had launched an online interface in EPFO's unified portal for the principal employer to declare and monitor EPF compliance of their contractor regarding deployment of the contract employees at their facilities. It was enabled through the interface to make compliance easier and also, to give real-time visibility for EPFO's Field officers on establishment compliances. According the portal's online functionality which was launched in 2017 it was suggested to the principal employer to register their

PF Updates:
https://unitedconsultancy.com/epf-action-plan-for-field-offices-to-improve-performance-in-declaration-of-contractors-and-principal-employers/

contractors and furnish their details on a monthly basis, like the list of contractors with their PF registration number, Invoice Number and amount, list of contract employees with UAN, Wages and PF remittance details. However, most of the companies have not implemented the registration process considering the notification was more of an internal communication within the EPFO and also considered it as an advisory notification. The EPFO has conducted an assessment of the progress in the registration of principal employer and their contractors and discovered that the progress of registration is highly inadequate. As a result, the EPFO has also launched an additional function in the EPFO portal that allows the contractor's establishment to declare the principal employer's details to monitor compliances for each establishment and its contractors on a real-time basis.

As per the notification issued by the EPFO on 27th April 2022 (Vide No C/1/7212) EPFO Notification, it was clarified again that the principal employer shall be responsible for the EPF compliances for the contract employees deployed through the contractors. Further, it also stated that the principal employer should ensure that the contractor is registered with the EPFO before awarding any contract and also need to make the Contractor's PF registration a mandatory document in the tender notification. The contractors' details should be furnished in the EPFO portal and the payments due to the contractors should be made only after verifying their PF compliances. The Government intends to ensure social security benefits to all the contractual employees and hence an online functionality has been provided for the principal employer to declare and monitor the EPF compliances for their contract employees. Companies will have to ensure that all their contractors including those who deploy manpower resources for ad-hoc works and short-term contract periods comply with EPF.

Considering the above-mentioned initiative from the government the principal employer should acquire the various compliances from the contractor regularly and verify these through a management tool. It will enable the companies to have real-time visibility for contractors' compliances and to extract the compliance documents of contractors according to the demand from various government authorities.

In This Issue

Due to the high demand for monitoring such compliances and for the ease of doing business for all our stakeholders UCS has launched an online compliance tool known as *UCSCompliTool vendor compliance module*. It is a one-stop platform to monitor and track the third-party contractor's compliance. The salient features include vendors uploading documents from their respective locations, enhanced auditing by the UCS team, record maintenance, real-time tracking of document status for the principal employer, generating reports and many other capabilities. The tool functions as a repository, and the documents are easily retrievable to be presented for any auditing/inspections which protects the establishment from huge liability due to the non-availability of vendor documents. A detailed demo of *UCSCompliTool* can be scheduled with our team or can be viewed on our website. The benefits of *UCSCompliTool* and enquiry details are given in *Pg.8* of this edition.

12 Hours Work-Week, Changes In Earned Leave, Reduced In-Hand Salary, Higher PF: Modi Govt. Likely To Implement Rules From July 1

The four labor codes on wages, social security, industrial relations and occupation safety, health and working conditions are likely to be implemented from July 1, several media reports have quoted. Once implemented, the new wage code will impact working hours, salary restructuring and PF contribution, encashing of Earned Leaves among the prominent ones. As per reports at least 23 states have pre-published draft rules on these laws, while the Centre has completed the process of finalizing the draft rules on these codes in February 2021. The central government has notified four labor codes, namely, the Code on Wages, 2019, on August 8, 2019, 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. Since labor is a concurrent subject, the Centre wants the states to implement these as well in one go, as has been reported earlier.

Reduced in-hand salary after implementation of Wage Code: The government's notification of the Code on Wages 2019 may reduce the take-home pay while components like PF and Gratuity might rise. This is based on the grounds that the new wage code mentions a provision entailing that the employee's basic salary will be at least 50% of his/her net monthly CTC. Hence, if this provision comes into effect, it will mean that employees will not be able to get more than 50% of his/her net monthly salary in form of an allowance.

Higher PF after implementation of Wage Code: This also means that there will be a consequent rise in gratuity and PF contribution of the employee. Hence, while the take-home pay of the employees may be reduced, the Gratuity and PF components may rise.

12 hours work-week: Experts also believe that the new draft will impact the working hours of employees with some media reports saying that employees may be allowed a four-day workweek but they will have to work for 12 hours on those four days. The labour ministry has made it clear that a 48-hour weekly work requirement is a must.

Big changes in Earned Leave policy after new wage code implementation: The biggest change could be seen in cases of Earned Leave. Government departments now allow 30 holidays in 1 year, defense employees get 60 holidays in 1 year. Employees can cash up to 300 holidays on carrying forward, however, the Labor union is demanding to increase in the number of holidays to 450 in the new code. At present, there are 240 to 300 holidays in different departments. Employees can take these holidays in cash only after 20 years of service.

Source: www.msn.com

Decline in number EPF, ESI, NPS Subscribers in the month of February

Formal job creation showed drab activity with EPF, ESI and NPS schemes registering a decline in net addition of new subscribers in February. Over 8.40 lakh new subscribers joined the Employee Provident Fund (EPF) scheme in February, registering a fall, compared to 9,24,952 new subscribers that were added in January, according to government data released recently.

The provisional payroll data by the ministry of statistics and programme implementation shows that during September, 2017 to February, 2022, 5.18 lakh new subscribers joined the EPF scheme. The data reveals that as many as 12.56 lakh net new subscribers were added under the Employees State Insurance Corporation (ESIC) in February as compared to 12.99 lakh new subscribers added in the preceding month. During September, 2017 to February, 2022; 6,34,31,502 new subscribers joined the ESI scheme.

The National Pension Scheme (NPS) also witnessed a slight dip in subscription at 64,611, as compared to 64,998 new subscribers added in January 2022. Overall, 32,90,307 new subscribers have joined and contributed to the NPS Central Government, State Governments and Corporate schemes during September, 2017 to February, 2022.

Source: New Indian Express

PF TDS Circular exceeding 2.5L Contribution Limit

The Employee Provident Fund Organisation (EPFO) issued a circular dated 05th Apr 2022 which clarifies the calculation and deduction of tax on taxable interest which is relating to contribution to the provident fund.

Highlights of the Circular:

- The circular applies to all EPF subscribers with effect from 01.04.2022 for FY 2021-22.
- As per the circular, the effective date for TDS in case of final claim settlement shall be: 01.04.2022 or final settlement/transfer – whichever is later, and in all other cases, TDS shall be on the date of credit of interest.
- The CBDT notification requiring tax deduction at source would be applicable in the case of: PF settlement Transfer claims Transfer from the exempted establishment to EPFO or vice-versa Transfer between trusts, past accumulation transfer and also applicable in death cases in case of the live member; explains the methodology of computing TDS, states that taxable part of the contribution will be subject to separate accounting of interest and maintenance as the closing balance of taxable part will earn interest and subject to TDS.

PF Updates:
https://unitedconsultancy.com/epfo-notification-dt-5th-apr-2022-calculation-and-deduction-of-taxable-interest-relating-to-contribution-in-provident-fund-exceeding-specified-limit/

- Accordingly, the interest on contribution and claim for refund shall be divided into two components – Taxable and Non-taxable for deduction of tax.
- TDS rate shall be 10% if the PF account is linked with valid PAN, 20% if the PF account is not linked with valid PAN (i.e. TDS rate would be double) 30% under Section 195 subject to provisions of DTAA; in case of non-resident.
- Further, it will apply to international workers as well.
- Calculation of taxable interest relating to contribution in a provident fund or recognised provided fund, exceeding specified limit has been given under Rule 9D in the income tax rules,1962.
- The threshold limit specified as Rs. 5 Lakh is applicable for Central Government Employees / armed Forces, etc. & for Private Ltd. Employees the threshold is 2.5 Lakhs.
- Necessary software change is expected to be implemented by EPFO to modify the Member accounts and Annual Accounts.
- Necessary illustration and FAQ can be viewed in the circular.

Source: Gov. notification

Panel Backs Raising Monthly EPFO Wage Ceiling To ₹21,000

A high-level committee has backed a proposed increase in wage ceiling under the employee's Provident Fund Organisation (EPFO) to ₹21,000 a month from the current ₹15,000. The committee has, however, said the government can implement the increase from a later date considering all inputs. The proposal, once implemented, will bring an estimated 7.5 million additional workers within the fold of the scheme, and also adjust for the increase in wages as the last revision was done in 2014.

"*The ad-hoc committee on EPFO coverage has agreed to enhance (waged under) EPF Act to align with ESI establishment,*" a senior government official told ET, adding that it has suggested the implementation be considered at a later stage and not immediately. The suggestion, if accepted by the central board of the trustees of EPFO, will give a breather to the employers who are reluctant to immediately take on any additional financial burden. Employers had in their consultations cited stress on their balance sheets due to the outbreak of the pandemic and sought more time for implementing the proposed increase. It will also be a relief for the exchequer as the Centre currently pays about ₹6,750 crores every year to the Employees' Pension Scheme of the EPFO. The government contributes 1.16% of the total basic wage of EPFO subscribers towards the scheme.

Under the current rules, any company with more than 20 employees must register with the EPFO and the EPF scheme is compulsory for all employees earning less than ₹15,000. The increase in the limit to ₹21,000 will bring more workers under the retirement scheme. It will also align the ceiling with the other social security scheme Employees' State Insurance Corporation (ESIC) where the limit is ₹21,000. KE Raghunathan, an employer's representative on the central board of the trustees of the EPFO, said there is a consensus within the EPFO that similar norms should be followed for providing social security under both EPFO and ESIC. "*Workers should not lose out on the benefits of their social security because of the difference in norms under the two schemes,*" he said. Labour unions are, however, apprehensive the decision may take a very long time to implement. "*Lots of hurdles are in the way to implement this including the required approval from the finance ministry,*" a trade union representative said requesting not to be identified.

Source: Economic Times

Self-Employed May Be Brought Under EPFO's Social Security Net

The government is looking to allow self-employed people to enrol under the Employees' Provident Fund Organization by contributing 10% of their income to the provident fund body every month "*The proposal, being deliberated upon by the ad-hoc committee on EPFO expansion, is expected to benefit 15 million self-employed people in the country,*" a person familiar with the deliberations told ET.

The decision on the proposal will be taken by the central board of trustees of EPFO. The person cited earlier said the government may come up with an entirely new scheme or include a provision in the existing EPFO scheme that allows self-employed workers to avail of the benefits of provident fund and pension.

The rate of contribution, however, could be subject to an income ceiling. Under the existing EPFO scheme, wages for the computation of provident fund and pension are subject to a ceiling of ₹15,000 per month. Also, the contributions made by the self-employed may not be part of the corpus built over several decades through employee-employer contribution under the existing Act. Even the returns on such deposits from individuals or the self-employed may vary from the returns on EPFO investments as on date. The EPFO had announced an interest rate of 8.1% for 2021-22.

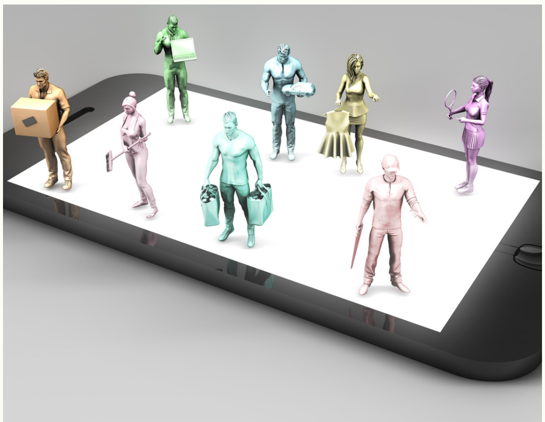
The Social Security Code empowers the government to frame a new scheme to provide social security to an unorganised worker, including the self-employed, and shall entrust the administration of such scheme to the EPFO. However, if the implementation of the Code is delayed, the government may even consider tweaking the EPF Act, 1952, which mandates an employee-employer relationship wherein both employee and the employer contribute 12% each to the provident fund account of the beneficiary.

Retirement fund body EPFO has around 60 million subscribers and manages a corpus of over ₹12 lakh crore. EPFO beneficiaries are entitled to provident fund benefits under the EPF scheme, pension benefits under the EPS-95 scheme, and the insurance benefits under the Employees' Deposit Linked Insurance Scheme.

Source: Economic Times

Labour Laws Don't Cover Gig Workers, Need Steps To Protect Them: SC Judge

Supreme Court Judge *DY Chandrachud* recently said there was an urgent need to protect the rights of lakhs of youths working for mobile or web-based apps, who deliver almost everything under the sun at the consumers' doorsteps within minutes. Delivering '*Justice PM Mukhi Memorial Lecture*' on '*Reconciling Rights and Innovation: Examining the Relationship Between Law and Technology*', Justice Chandrachud said with the introduction of several mobile or web-based apps, the labor market has fissured and the gig economy has had significant ramifications on existing business models for food, clothing and groceries.



Expressing serious concern over the alleged immunity from labor law obligations enjoyed by app-based companies because these platforms are legally structured as aggregators and intermediaries, Justice Chandrachud said, "*Their contract-based relationship with app-based workers does not fit within traditional definitions of employment, and the disaggregated nature of app-based work makes collective bargaining with platforms difficult.*" This has resulted in the non-applicability of the traditional labor law in India to most of the platforms, he said. "*How, for instance, do the labor law requirements of maintaining a creche or statutory canteen or providing wages for overtime work translate in the emerging world digital spaces? These vexed issues are important for consideration across the domains of law, regulation, technology and policy,*" he added. "*A distinct blueprint of legal measures to effectively improve the conditions of app-based workers is urgently required,*" he said.

Source: Times of India

HC: Not Granting Old Pension Scheme Benefits in Punjab 'Deplorable'

The Punjab and Haryana High Court has described as "*deplorable*" the state of Punjab's action of not granting pension benefits under the old pension scheme to an employee whose services were regularized after the commencement of the new contributory provident fund, though he was already working on a temporary or ad hoc basis. Justice *Harsimran Singh Sethi* asserted the action of the respondents was appalling in view of the fact that the law on granting the benefits under the old scheme had already been settled by a Division Bench in the case of "*Harbans Lal versus Punjab and others*" decided on August 31, 2010. The judgment made it clear an employee already working on a temporary or ad hoc basis as on January 1, 2004 when the new contributory provident fund scheme came into being would be governed by the old pension scheme only.

The matter was brought to the High Court's notice after employee Prem Chand filed a petition against the state and other respondents. Referring to the facts of the case, Justice Sethi asserted contributory provident fund scheme was made applicable in the petitioner-employee's case when he retired in May 2016, even though it was incumbent upon the state and other respondent-authorities to apply the judgment passed in Harbans Lal's case to his matter as well.

"*What to expect of applying the judgment so as to grant the necessary relief, the petitioner was rather forced to approach this court for redress of his grievances. The counsel for the respondents has not been able to dispute the fact that the petitioner's case is covered by the judgment, so as to grant him the pension benefit as per the old scheme. Hence, it is held that the claim of the petitioner for the grant of pension benefits be considered under the old scheme,*" Justice Sethi asserted.

Justice Sethi also made it clear the petitioner's total length of service was to be taken into consideration as qualifying service, including the daily wage service rendered by him from September 1987 to October 2004. Justice Sethi added it was a settled principle of law that daily wage service was to be treated as a qualifying service for computing the pension benefits when the service was regularized by the department. Justice Sethi also ruled the petitioner was entitled to grant of interest on the pension and its arrears, to be calculated by the respondents at 6 percent per annum "*from the date the petitioner's pension became due till its release to him to be paid within two months from receiving the order's copy*".

Source: Tribune India

Offices Reopen, But WFH Roles Remain Top Choice

Is it commuting relief or the comfort of a home office? After the third Covid wave subsided, there may have been a reset in the way people work either from office or in a hybrid way but WFH remains a hot favourite among job applicants.

According to a study, applications for work-from-home (WFH) jobs continued to grow at over 100% month-on-month (MoM) in March. However, postings for WFH jobs have moderated to 69% from 142% in February 2022. The data from global employment platform Monster's WFH job trends, shared exclusively with TOI, suggests that while most organizations have adopted a hybrid model, which is also said to be a preferred choice, a large section of workers is still opting for WFH mode.

Monster.com CEO Sekhar Garisa said, "*There has been a radical change in perspective. Today, if employees choose to work onsite, the key reasons are for a change of scenery, to team up face-to-face, or to avoid situations that aren't contributing to profound and collaborative work. This arrangement has given them a sense of control and freedom over their own schedules, which can directly be attributed to enhanced productivity and high level of job satisfaction.*"

According to the data, the MoM growth rate in job applications has come down from 137% in January 2022. However, WFH job trends could change depending on external factors. "*The past two years were those of unintended remake and regenerate, but 2022 is where it gets discretionary. This year will be all about the workforce and workplace. Although employee sentiment is inclined more towards WFH, a hybrid model that will balance the constructed communique with concerted support is key,*" said Garisa. Several organizations have adopted the hybrid work culture, which has emerged as the future of work. Considering the decline in the number of Covid cases over the past few weeks, Hindustan Unilever (HUL) moved to hybrid ways of working. A company spokesperson said, "*We have encouraged our people to join us in the office/work the market for at least three days a week and we have received a good response. Those who are vulnerable or have exceptional circumstances that prevent them from coming into the office have the option to discuss their work arrangements with respective managers and team members.*"

Assessment technology provider Mercer-Mettl's CEO Siddhartha Gupta said, "*While one reality is that face-to-face interactions are more creative and problem-solving, WFH is a time-saver. It also allows for deep thinking, which usually you would not get in an office environment. Both have their pros and cons.*" Some organizations continue to offer work-from-anywhere (WFA) for employees. Travel tech firm Sabre is one such to introduce a global WFA programme that provides their team members with a selection of flexible work arrangements.

Talent scarcity is expected to continue. According to the Monster data, 39% of total WFH jobs were posted for freshers, which accounted for the highest share across functions.

Source: Times of India

EPFO Wage Ceiling May Be Indexed to Inflation Gauge

The government is considering indexing the wage ceiling under the Employees' Provident Fund Organisation (EPFO) to an inflation gauge or some other measure to allow periodic revision. The last revision in the EPFO wage ceiling was done in 2014 when it was raised to ₹15,000 from ₹6,500. The issue was deliberated at the ad-hoc committee on EPFO coverage, a senior official told ET. According to the official, the options being considered include linking it to the consumer price index or dearness allowance or the median wage. "An expert committee is likely to be set up to suggest the most appropriate index for the purpose. Then the labour ministry will hold consultations with all relevant stakeholders before a firm proposal is moved," said the official, who did not wish to be identified. The wage ceiling under the EPFO has been revised only eight times since the inception of the scheme in 1952. It stood at ₹300 in 1952, ₹500 in 1957, ₹1,000 in 1962, ₹1,600 in 1976, ₹2,500 in 1985, ₹3,500 in 1990, ₹5,000 in 1994, ₹6,500 in 2001 and ₹15,000 since 2014 onwards.

While this would enhance the EPFO coverage, it would mean an additional cost to the employers and the government and hence the proposal could face stiff resistance. Besides, there would be an increase in the administrative cost for running the schemes under the EPFO. This is because an employer makes a matching contribution of 12% of the workers' basic salary towards the provident fund while the government contributes 1.16% to the Employees' Pension Scheme for every worker, with the wage ceiling fixed at ₹15,000. Of the employers' share of 12%, 8.33% goes into the pension account of the beneficiary.

Source: Economic Times

ESI Covid Relief Scheme Relaxed Condition

The ESI Corporation notified Covid-19 Relief Scheme last year as a welfare measure for the ESI covered employees under which in case of death of an insured person due to Covid19, the eligible dependant family members will be paid periodic payments directly to their bank accounts. As per the *notification*, the existing minimum eligibility period to avail of this benefit has been reduced from seventy days to thirty-five days.

Source: Gov. Notification

Karnataka Social Security Code Draft Rules 2022

The Government of Karnataka, vide notification No. LD 285 LET 2021, dated 04th Apr 2022, has published the draft rules of the Code on 'The Social Security (Karnataka) Rules, 2021'. It has been directed that all suggestions or objections related to the said draft rules are to be submitted within 45 days to the official email IDs *secy-labour@karnataka.gov.in* and *labour.commissioner42@gmail.com*.

Source: Gov. Notification - (Highlight of the draft rules can be viewed on our *website*)

Labour Ministry Issues Notice to Infosys on Non-Compete Clause Issue

The labour ministry has issued a notice to Infosys to hold a joint discussion on a non-compete clause in the IT services provider's job offers. A clause in the letter restricts employees from joining 'named competitors' or any of Infosys' clients directly for six months after leaving their jobs. The ministry will hold a joint discussion before the Chief Labour Commissioner in New Delhi. Infosys' group heads for human resources, Krish Shankar, and Harpreet Singh Saluja, the president of Pune-based labour union Nascent Information Technology Employees Senate, which had filed the complaint, have received the communication from the ministry.

ET has reviewed a copy of the notice. The labour union has sought the removal of the non-compete agreement clause in the offer letters. Infosys did not respond to ET's queries till press time. According to the agreement, an employee shall not accept for six months an employment offer from "named competitors "such as TCS, Wipro and HCL Technologies, among others, if the new job involves working with a customer with whom the employee has worked in the preceding 12 months during his/her stint at Infosys. It also says that for six months an employee should not accept employment offers from a customer with whom he/she has directly worked in the preceding 12 months. "It is a standard business practice in many parts of the world for employment contracts to include controls of reasonable scope and duration to protect the confidentiality of information, customer connection and other legitimate business interests," Infosys had told ET last week. The conditions are fully disclosed to all job aspirants before they decide to join Infosys, and do not prevent employees from joining other organisations, according to the statement. The IT industry has been battling an acute talent crunch for the last few quarters. The attrition rate at Infosys hit 27.7% for the quarter ended March 31, while the metric stood at 17.4% at bigger rival Tata Consultancy Services.

Source: Economic Times

UCSCompliTool is a technology to ease the complexities of navigating through the changing Labour laws. With our past experiences and feedbacks, we have developed an in-house Software solution and have created this robust mechanism which represents our motto – Compliance simplified. It provides a real time and 360-degree view of compliance status for the Principal employer (CompliTool - Compliance) and with risk matrix to monitor the contractors (CompliTool - Audit). We have developed a Role Based Access Control model and being a cloud-based system, we are offering an absolute security and protection of data.

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- Ease of Monitoring
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