UNITED CONSULTANCY SERVICES
compliance simplified™

THE COMPLIANCE WATCH

2023

IN THIS ISSUE

ISSUE THIRD | MARCH 2023

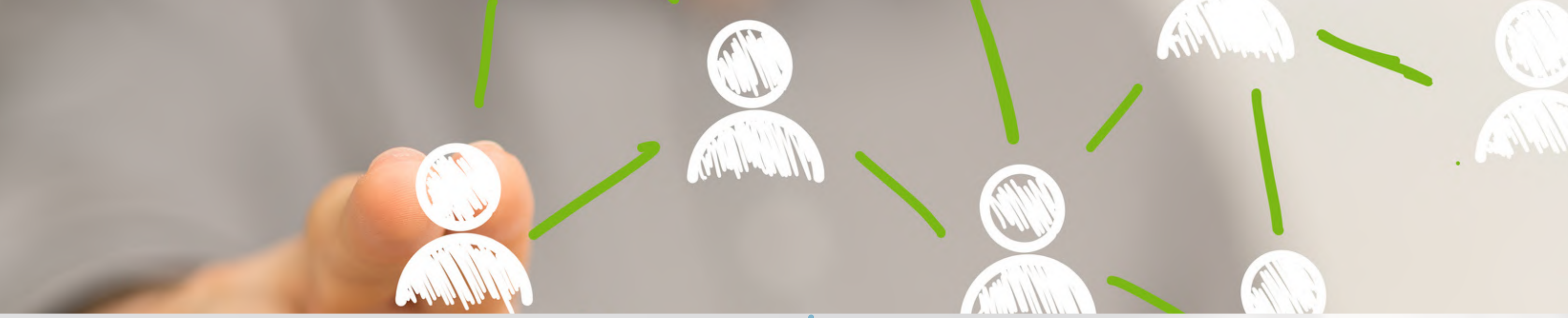
UCS POV | A Synopsis of Higher Pension Process

Bala Harish, Vice President

In view of the higher pension circular issued by the EPFO dt.20th Feb 2023 and to facilitate many members to opt for the same the EPFO has extended the application filing timeline till 3rd May 2023. The Higher pension application submission URL link and the various conditions to be accepted by the employees on the portal can be viewed in the given link https://unifiedportalmem.epfindia.gov.in/memberInterfacePohw/

- The link includes 2 subcategories, employees who retired prior to 01.09.2014 and exercised the Joint option can apply using the Pension Payment Order (PPO) link, and employees who were in service prior to 01.09.2014 and existing employees but could not exercise the Joint option can apply using the Universal Account Number (UAN) Link.

- Employees are required to have the Para 26(6) permission letter, EPF Passbook as evidence to prove Higher PF is contributed by the employee. The available balance will be verified by the EPFO body to transfer the Employer PF into Employees' Pension Scheme Account. In case of insufficient balance or the PF Account is closed then the employee is required to issue an undertaking to deposit the contributions along with the interest due through his/her last employer and this undertaking is to be attached for the applicable cases.



- The decision to opt for higher pension is to be taken by the individual employee and not by the employer. As this is an investment choice similar to opting for NPS, PPF and so on by an individual. Employer to brief the impact details to the employees towards they taking the necessary decision. A few are listed below:

1. It is purely an employee's voluntary scheme. Therefore, employees who intend to go for a higher pension can apply for this, and not mandatory.

2. Due to the adjustment from Employer PF Account to the Pension account, the interest earned by the employee on the Employer PF portion is likely to be recovered by EPFO.

3. The employees must be aware that their PF balance will see a depletion towards the transfer of Funds to a Pension account due to opting for a Higher Pension scheme. A higher pension contribution reduces the EPF lumpsum corpus that an employee receives on retirement.

4. Unlike the PF, the EPS is not an employee-specific corpus. In simple words, Employee EPF contribution is set aside in a specially-made corpus for the employees. At retirement, that corpus is employees'; it can be withdrawn with principal plus interest accrued over the years. On the contrary, the EPS is not a corpus. The EPFO will pay regular pension, from the fund amassed through EPS contributions over the years, till the employee lives. In the event of death of an employee the spouse gets 50% of the eligible pension. If the employee and their spouse both passes away, their children will get a pension equal to 25% of the amount payable till they reach 25 years of age.

5. Once opted for a higher pension, employees cannot switch back to the restricted Pension option.

6. Pension accounts do not earn any interest. By moving 8.33% of funds into Pension, this portion will not qualify for any interest. This is the same for past pensions and prospective pensions as well.

7. The EPF maturity amount is tax-free, if you are in the continuous service of more than five years. Employees are subject to taxation on their monthly pensions and lump sum pensions.

8. Higher pension attracts an additional 1.16% contribution which was paid by Central Govt till Sep 2014. If the employee opts for a higher pension, then effective from Sep 2014 to May 2023, this additional contribution of 1.16% is to be borne by the employee.

9. Employees must be aware that the Central Govt. is empowered to amend the scheme as it may deem fit in the future, this is part of the 9-pointer declaration in the online process.

10. Employees working at the current establishment that offers PF remittance on higher wages, who in future move to an establishment that follows PF remittance on restricted PF, the average 60 months pension wage from the exit will be calculated resulting in lesser average wages, hence employees need to consider this risk factor as well. The individual employee must do their proper cost-benefit analysis before opting for this scheme.

New leave encashment rule: Non-govt employees to gain ₹20,000 per year

Union Finance Minister during her annual Budget speech made a slew of announcements . One of the major announcements was regarding the new leave encashment exemptions that made the headlines. FM Sitharaman proposed to hike tax exemption on leave encashment on the retirement of non-government salaried employees to ₹25 lakh from ₹3 lakh. Days later, revenue secretary Sanjay Malhotra told Times of India, "The ₹22 lakh benefit at 30% plus works out to almost ₹7 lakh". Malhotra said if one spread the exemptions for over 30-35 years, it works out to more than ₹20,000 a year.

According to Malhotra, 50% of personal income taxpayers are salaried class. Hence the new leave encashment exemptions will benefit them at the time of retirement whether they choose the new tax regime now or the old today. He said the new "leave encashment" exemption will also benefit government staff, including those working for AIIMS.

What is leave encashment?

As per India's labour law, every salaried person is entitled to a minimum number of paid leaves every year. However, not all those leaves are utilised by an employee in a year.

Now, these unutilised paid leaves usually get carried forward to another year. As a result, an employee will be accumulated with unutilised leaves balance at the time of retirement or resignation. Henceforth, the employer is compelled to compensate the unutilised paid leaves of employees. This is known as leave encashment.

Is leave encashment taxable?

Yes, the leave encashment is taxable as per the law. If an employee receives leave encashment during his/her job, the amount forms part of 'income from salary'. However, one can claim some tax benefits under Section 89 of the I-T Act. One needs to fill out form 10E to claim tax relief for leave encashment. Since the Centre has hiked tax exemption on leave encashment on the retirement of non-government salaried employees to ₹25 lakh, it would help lakhs of employees in saving their capital.

Source : LiveMint

PIL against job advertisements offering salaries below minimum wage on official portal: Delhi HC seeks govt's reply

The Delhi High Court recently sought to know the Delhi government's stand on a public interest litigation (PIL) against job advertisements on the Delhi government's official portal offering salaries below the fixed or minimum wage prescribed by the law.

A division bench of Chief Justice Satish Chandra Sharma and Justice Subramonium Prasad sought the Delhi government's response and listed the matter for hearing on May 23. The PIL was filed by Md Imran Ahmad, a law student of Jamia Millia Islamia, who said he filed it for the benefit of the workers and labourers working in Delhi. The plea also seeks protection of the fundamental rights of the labourers, enforcement of the labour laws and termination of bonded labour in the national capital. It further seeks direction to the state government to "immediately stop" allowing any individual, company, organisation or establishment from advertising job vacancies with salaries below the fixed minimum wage on the government's official portal or otherwise. The plea seeks a further direction to the Delhi government to monitor payments made to employees through online means and to ensure that they get the prescribed or the fixed minimum wage.

The petitioner referred to an October 2022 order of the Delhi government regarding minimum wages to be paid to unskilled, semi-skilled and skilled workers. The petitioner alleged in the plea that he approached the Delhi government for lawful payment of wages to its employees but it failed to respond and take any action. The plea said, "non-payment of Minimum wage is adversely affecting the right to life (including the right to health and the right to dignity) as guaranteed under Article 21 of the constitution."

The plea claims that jobs for posts of office boy, cook, waiter, computer operator, delivery boy, kitchen helper, ambulance driver etc are being advertised on the government portal with salaries below the fixed minimum wage, thereby violating the state government's order.

Source : IndianExpress

RCCI urges Gujarat govt to abolish professional tax

Ahead of the state budget, the Rajkot Chamber of Commerce and Industry (RCCI) has demanded the abolition of professional tax of Rs 102 crore on the ground that the municipal corporation is spending Rs 300 crore every year for the process. RCCI submitted a representation to the state government with long-pending demands. The RCCI also demanded allotment of a convention centre for Rajkot. Former chief minister Vijay Rupani had accepted this demand and made provision for 32-acre land in the Smart City area. The trade body urged the government to expedite the process to allot the land. RCCI also revived a decade-old demand to provide an inland container depot (ICD) at Rajkot to facilitate the importers and exporters of the Saurashtra region. ICD is a dry port. RCCI also demanded the establishment of a defence and aerospace industry in Rajkot which is a hub of engineering and auto parts. The required raw material is also easily available at Jamnagar's brass industry which is logistically very near.

The state government allotted 91 ha of land for the new Devgam-Khirasara GIDC and the chamber had earlier requested for at least 341 ha. RCCI requested to immediately provide 100 more hectares of government wasteland in Chapra village. The trade body also demanded abolishing toll tax from all the highways of the state. The representation stated that "The people have given a clear majority to the government and it's the latter's turn to gift voters by abolishing the toll tax," the representation stated.

Source : TimesOfIndia

Government makes it mandatory for all shops, offices to put up signboards in Punjabi, gives 6 months to comply

It will be mandatory for shops and establishments in Punjab to put up signboards in Punjabi with the state cabinet approving an amendment in relevant rules to promote the language. The cabinet, in its meeting chaired by Chief Minister Bhagwant Mann, approved an amendment in the Punjab Shops and Commercial Establishments Rules, 1958 by insertion of new rules 23 and 24, after existing rule 22, to promote Punjabi.

A spokesperson of the chief minister's office said that following the amendment, it will be mandatory for every establishment to display its name on its board in Gurmukhi script. However, other languages can also be used to display names on the board in addition to Punjabi. All establishments will have to comply within six months of the amendment coming into force. Whoever contravenes the new provisions shall be punishable with fine not exceeding Rs 1,000 for first offence and Rs 2,000 for every subsequent offence, the spokesperson said. The state government had earlier exhorted people to put all the signboards on private and public buildings across the state in Punjabi language before International Mother Language Day, which falls on February 21.

Source : IndianExpress

Karnataka Budget sees professional tax exemption limit raised to Rs 25,000 — Here's who benefits

The Karnataka government recently proposed to simplify the Professional Tax Act by amending the law. While making the state Budget announcements for the financial year 2023-24, Karnataka Chief Minister Basavaraj Bommai said professional tax exemption limit has been increased from Rs 15,000 to Rs 25,000 in order to provide relief to the lower income class.

This includes both salaried or wage-earning employees, the Chief Minister added. As per the Karnataka professional tax slab rates, all individuals with a monthly gross income less than Rs 15,000 are currently exempted from any charges. However, employees with a monthly gross salary above Rs 15,000 are levied a professional tax of Rs 200. The same has been increased to Rs 25,000 now. Both salaried and self- employed individuals need to pay professional tax which is collected by the Karnataka state government. For salaried employees, professional tax is levied by employers whereas non-salaried professionals need to pay it to local authorities appointed for collecting professional tax. Doctors, lawyers, chartered accounts and any other individuals engaged in private professions are also liable to pay professional tax in Karnataka. This tax is levied by the state government and applies to income an individual earns through employment. One can often find the deduction for the same on the salary slip each month. This can vary depending on the state one lives in. The maximum limit of which one can be charged is Rs 2,500. The tax is calculated based on the slabs.

Source : CNBCTV18

EPF Minimum Pension 3,000 Notification

The Parliamentary Stnding Comittee on Labour has recommended that the minimum pension under the Employees Pension Scheme (EPS) should be raised to at least ₹3,000 from the present ₹1,000. Gazette Notification for reconstitution of Regional Comittee for the state of Gujrat under Para 4 of the EPF Scheme, 1952 HO No. The scheme assures minimum monthly pension of Rs 3000 to the beneficiaries after attaining the age of 60 years. All unorganized workers, in the age group of 18-40 years, whose monthly income is up to Rs 15,000 and who are not members of Employees' Provident Fund Organization or Employees' Stte Insurance Coporation or National Pension System (Govrnment contributed) and are also not income tax payers, are eligible to enroll under the Scheme.

Source : Nashik Corporation

New PF withdrawal rule: PAN card holders must check in FY24 during income tax return (ITR) filing

New provident fund (PF) withdrawal rule: While presenting the Union Budget 2023, Finance Minister Nirmala Sitharaman proposed to decrease Tax Deduction at Source (TDS) from 30 per cent to 20 per cent for taxable component of the Employees' Provident Fund (EPF) Scheme for non-PAN cases. However, other income tax rule will remain same. As per the income tax rule, if a PF or EPF accountholder goes for its EPF withdrawal before completion of 5 years of account opening, then in that case, whole withdrawal amount would remain taxable and PF contribution above ₹2.5 lakh per annum would also remain taxable.

"At present the TDS rate on withdrawal of taxable component from Employees' Provident Fund Scheme in non-PAN cases is 30 per cent. It is proposed to reduce it to 20 per cent, as in other non-PAN cases," Nirmala Sitharaman had said while presenting the Union Budget in parliament. Simplifying the new PF withdrawal rule for non-PAN cases, Mumbai-based tax expert Balwant Jain said, "PF withdrawal is taxable if the withdrawal takes place before five years of PF or EPF account opening. If the PF account is seeded with account holders PAN card, then there will be no TDS levied on the withdrawal amount. PF withdrawal amount will get added to the total taxable income of the PF account holder in the year of withdrawal and the tax will become applicable on the basis of income tax slab getting applicable on the PF account holder."

However, Balwant Jain said that in case of PF account not seeded with account holders' PAN card, TDS is deducted from the net amount available in one's PF account. This TDS rate is currently 30 per cent of the PF withdrawal amount, which will come down to 20 per cent from 1st April 2023 or from the beginning of FY24.

Source : LiveMint

Labour ministry extends unemployment benefits under ESIC for another two years

The labour ministry recently, extended the unemployment benefits under the Employees' State Insurance Corporation for another two years while extending medical care facilities to the general public from one ESIC hospital, each in Rajasthan and Bihar. Further, the ministry approved setting up of new ESIC hospitals, upgradation of few hospitals and taking over a few hospitals from the state governments into the ESIC for better service delivery. Further, it has decided to continue funding to north-eastern states to run the ESIC scheme for providing better medical care facilities in the region. The decisions were taken at the 190th meeting of the Employees' State Insurance Corporation (ESIC) on Monday at Chandigarh under the chairmanship of the labor and employment minister Bhupender Yadav. "In order to provide relief to insured workers who became unemployed during the Covid-19 pandemic, ESI Corporation in the meeting agreed to the proposal of extending the benefits available under Atal BeemitVyaktikalyan Yojana for two more years," the labour ministry said in a statement.

Atal Beemit Vyakti Kalyan Yojana (ABVKY) is a welfare measure under which insured beneficiary can avail cash compensation for up to 90 days once in lifetime of the worker in the contingency of unemployment. The ESI Corporation, during the meeting, also approved setting up of one 100 bedded hospitals each in Karnataka), Telangana, Maharashtra, two in Rajasthan and one in Odisha, a 30-bedded hospital in Andhra Pradesh and a 350-bedded hospital at Greater Noida in Uttar Pradesh. "In addition to these, it was also decided to upgrade the newly approved 30 bedded ESIC Hospital at Rangpo, Sikkim to 100 bedded and to take over the ESIC hospital in Andhra Pradesh and Jharkhand from the state governments.

"The newly taken over hospitals will be directly run by ESIC to provide better medical care and facilities to workers and their family members," it added. Further, ESIC also decided to provide additional financial assistance of Rs 40 lakh per dispensary to north-eastern states, as an additional benefit apart from regular fund allocation under Standard Medical Care. "This shall also remain available for the new dispensaries, if they are opened as per the extant instructions," it added. Further, ESIC also approved the proposal for extension of medical care facilities to the general public free of cost in ESIC hospital and medical college, Alwar (Rajasthan) and Bihta (Bihar) till March 31, 2024, it said. "Facilities of drugs, dressings and consumables under ESIC will also be provided free of cost to them. It will benefit lakhs of general public in the adjoining areas for availing hassle-free quality medical care free of cost," the ministry added.

Source : EconomicTimes

Big relief to the EPFO employees! Amount increased up to Rs 8 lakh, know latest update from center

The EPFO has recently issued a circular, in which it has asked to increase the ex-gratia amount from Rs 4.2 lakh to Rs 8 lakh. The circular further states, an ex-gratia amount of Rs 8 lakh (Rupees eight lakh only) will be paid to the family members (nominee or legal heirs) of the deceased employee of the Central Board from the welfare fund. The cause of death is other than corona disease. EPFO members should note that the instructions will come into force with immediate effect and will be applicable to prospective cases where the date of death is after the date of issue of the circular i.e. November 2, 2021. It is expected that this new decision of EPFO will now benefit about 30,000 employees across the country. The institute has also informed about this decision by issuing circular in its offices. It is worth noting that EPFO has recently tweeted about e-nomination from its official Twitter handle. The tweet said, "Why should one file e-nomination?" Now, EPFO members need to follow some simple steps to file e-nomination.

They are as follows:

One has to visit the official website of EPFO, epfindia.gov.in. Then one has to choose the 'Services' option. Again, one has to choose the option 'for employees'. Now, one has to click on 'Member UAN/Online Service (OCS/OTP)'.

- Then login with UAN and Password
- Now, under the 'Manage Tab' one has to select 'e-Nomination'
- Next 'Provide details' tab will appear on the screen and one has to click on 'Save'
- Click on 'Yes' to update the family declaration
- After this click on 'Add Family Details'. It is to be noted that more than one nominee can be added
- Now, one has to click on 'Nomination Details' to declare the total amount of the share.
- Then click on 'Save EPF Nomination'.
- Finally, click on 'e-Sign' to generate OTP and submit OTP on Aadhaar linked mobile number.
- Keep in mind that after this process the e-nomination will be registered with the EPFO.
- There is no need to send any documents to the employer or the former employer after e-nomination. In case of any other details and queries, EPFO members may log on to the official website of EPFO at epfindia.gov.in.

Source : BusinessLeague

More Info Links

Himachal Pradesh – BOCW First Amendment Rules, 2023

Higher Pension Circular By EPFO Dated 20th Feb 2023

NFH 2023

Haryana: Revised Notification On Employment Of Women Employees In Night Shifts

Minimum Wages

Website

UNITED
CONSULTANCY SERVICES
compliance simplified™

N.F.H. LIST

2023

MINOR

MAJOR

UCS CompliTool®

Streamline Compliance & Risk

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.

Following are some of the major benefits of the Tool:

- Real Time Statistical Data
- Informative Tool
- Transparency
- Ease of Documentation
- Ease of Monitoring
- Highlighting of Critical Points
- Security and Data Confidentiality
- Centralization of Data
- Readily Available Documents
- Data Integrity
- Extensive Reporting
- User friendly Dash Boards
- Overall compliance review from front end maneuver

For Demo, Please write to us at enquiry@ucsdel.com or Call us @ 0124 2656864

UCSCompliTool.com

ABOUT US

United Consultancy Services is one of the leading consulting firms in India providing compliance, advisory and audit services in the field of Labour Laws, Human Resource Development and Legal matters pertaining to Industrial Relations. We provide meaningful, forward looking and compliance oriented solutions to help organizations grow while being compliant under labor laws. Proactive teams led by domain experts, use insight, experience and best practices to understand complex issues of publicly listed and privately owned clients and simplify compliance.

With over 30 years of existence and with more than 200 professionals the firm provides robust compliance services and solutions on complex requirements under Labour law. The information shared in the newsletter is on the basis of Government notifications and newspaper articles. This is for general information purposes only and does not constitute legal advice. Please reach out to your UCS contact or the Company legal counsel before taking any action.

We Simplify Compliance For You.

Unit No: 852 - 856
8th Floor JMD Megapolis,
Tikri, Sector 48, Gurugram
122001, Haryana

0124 - 2656800

enquiry@ucsdel.com

www.unitedconsultancy.com

PAN India Offices: Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Kochi | Kolkata | Mumbai | Pune