

HR and tax alert



India

Change in the certificate of coverage application form and clarifications issued on “monthly pay” for calculation of social security contributions

Summary

Indian social security authorities have issued two circulars on the following:

1. Changes in the certificate of coverage application form.
2. Clarification on “monthly pay” on which social security contributions are to be calculated.

Key update

1. Changes in the certificate of coverage application form

The application form to apply certificate of coverage from Indian social security authorities has been amended to include the following declaration by the employer and the employee:

“That the applicant *has worked / not worked in a foreign country with which India has entered into a social security agreement and he / she is *eligible / not eligible to avail the benefits under a social security programme of that country, by virtue of the eligibility gained, under the said agreement.

*Please strike off which is not applicable”

The purpose of this change in the application form is to identify an Indian employee who qualifies as an “International Worker”.

Under the social security legislation, an Indian employee assigned to a host country with which India has entered into a social security agreement qualifies as an “International Worker” if certain

conditions are satisfied.

The declaration in the application form puts an onus on the employer to identify whether the employee is an “International Worker” or not and ensure social security compliance accordingly.

It is important to note that this change in the application form will not impact the eligibility of an employee to obtain certificate of coverage.

Under the Indian social security legislation, an “International Worker” is subject to certain restrictive provisions in respect of social security contribution and benefits.

It was anticipated that one of the current declarations in the application form stating - “We maintain a direct master and servant relationship and that there is no agreement of employment of limited or unlimited duration (implied, oral or written) between the employee and receiving company.” will be removed. However, there is no change in this declaration in the application form.

2. Clarifications on “monthly pay” on which social security contributions are to be calculated

The concept of “monthly pay” for the calculation of social security contributions in India is a controversial matter.

In India, most employers’ split the salary of an employee into various components such as house rent allowance, conveyance allowance, medical reimbursement, leave travel allowance, special



Building a better
working world

allowance etc. The total salary of the employee is generally referred to as the “Cost to Company” (CTC) in employment letters.

Under the social security legislation, contributions are payable on the following components:

- a. Basic wages
- b. Dearness allowance
- c. Retaining allowance
- d. Cash value of food concession

(Total of a to d is “monthly pay”)

Further, “basic wages” is defined to mean all cash emoluments except certain specified components.

Also, employer is not allowed to recover its (employer’s) share of contribution from employee’s salary.

The social security authorities have issued the following clarifications:

- a. CTC cannot be construed to mean “emoluments” which are earned by an employee within the meaning of “basic wages” as defined under the legislation. Social security contribution cannot be charged on CTC.
- b. It is not wrong for the employer to show employer’s share of contribution as part of CTC of the employee.
- c. Employer is not permitted to segregate the CTC into various components to bring monthly pay below the wage ceiling (currently, INR 6,500 (USD 104) per month).

The circular, providing clarifications on “monthly pay” on which social security contributions are to be calculated, is a welcome step. However, the circular does not provide specific clarifications on whether contributions are payable on certain components like conveyance allowance, special allowance, expatriate allowance, etc.

Next steps

It is essential that employers do the following:

1. Ensure that they have a robust system in place to identify Indian employees who qualify as “International Workers”. This will need to be determined basis past travel status of the employee - on whether or not the employee has contributed to the host country social security with which India has a social security agreement.
2. Review the Provident Fund calculations to ensure they are in line with the clarifications issued.

EY | Assurance | Tax | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

About EY’s Human Capital services

Our global mobility team advises many of the world’s largest global employers - as well as those just venturing into their first foreign country. Our performance and reward professionals help you design compensation programs and equity incentives that really engage your key people. We help you meet your executive tax compliance obligations, stay on top of regulatory change, manage your global talent effectively and improve your function’s strategic alignment. It’s how EY makes a difference.

© 2014 EYGM Limited.

All Rights Reserved.

EYG no. DN0716

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

www.ey.com

EY International Social Security Services

Mike Kenyon

Tel: +44 (0)20 7951 2583

Email: mkenyon@uk.ey.com

Gary Chandler

Tel: +44 (0)20 7951 1280

Email: gchandler@uk.ey.com

EY India Social Security Centre of Excellence

Sonu Iyer

Tel: +91 11 4363 3160

Email: sonu.iyer@in.ey.com

Puneet Gupta

Tel: +91 11 4363 3173

Email: puneet1.gupta@in.ey.com