

SPECIAL PROVISIONS FOR INTERNATIONAL WORKERS

FREQUENTLY ASKED QUESTIONS (FAQs)

Updated on 19.11.2012

1. Who is an International Worker (IW)?

An International Worker (IW) may be an Indian worker or a foreign national.

International Worker means: -

- Any Indian employee having worked or going to work in a foreign country with which India has entered into a social security agreement and being eligible to avail the benefits under social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
- An employee other than an Indian employee, holding other than an Indian Passport, working for an establishment in India to which the EPF & MP Act, 1952 applies;

2. Is an Indian worker holding COC (Certificate of Coverage), an International Worker?

Merely holding the COC does not make an employee an International Worker. He becomes IW only after being eligible to avail the benefits under social security programme of any country. After obtaining COC, the employee is exempted from contributing to the social security systems of the foreign country with whom India has SSA, hence he is not eligible to avail the benefits under the social security programme of that country.

3. Who is an 'excluded employee' under these provisions?

'Excluded employee' means:-

A detached International Worker contributing to the social security programme of the home country and certified as such by a Detachment Certificate for a specified period in terms of the bilateral SSA signed between that country and India

or

an International Worker, who is contributing to a social security programme of his country of origin, either as a citizen or resident, with whom India has entered in to a bilateral comprehensive economic agreement containing a clause on social security prior to 1st October, 2008, which specifically exempts natural persons of either country to contribute to the social security fund of the host country (e.g. para 4 of Article 9.3 of CECA between India and Singapore provides that "*Natural persons of either Party who are granted temporary entry into the territory of the other Party shall not be required to make contributions to social security funds in the host country.*)

4. Who all shall become the members of the Fund?

- a) Every International Worker, other than an 'excluded employee' - from 1st October, 2008.
- b) Every excluded employee - from the date he ceases to be excluded employee.

5. Which category of establishments shall take cognizance of these provisions?

All such establishments covered/coverable under the EPF & MP Act, 1952 (including those exempted under section 17 of the Act) that employ any person falling under the category of 'International Worker' shall take cognizance of these provisions.

6. Whether PF rules will apply to an employee if his salary is paid outside India?

Yes, the provisions will apply irrespective of where the salary is paid. The PF contributions are liable to be paid on wages DA, and Retaining Allowance, if any, **payable** to the employee by establishment in India.

7. Whether PF will be payable only on the part of salary paid in India in case of split payroll?

In case of split payroll the contribution shall be paid on the total salary earned by the employee in the establishment covered in India.

8. 'Monthly Pay' for calculating contributions to be paid under the Act?

The contribution shall be calculated on the basis of monthly pay containing the following components actually drawn during the whole month whether paid on daily, weekly, fortnightly or monthly basis:

- Basic wages
- Dearness allowance (all cash payments by whatever name called paid to an employee on account of a rise in the cost of living)
- Retaining allowance
- Cash value of any food concession

9. What portion of salary on which PF would be payable in case an individual has multiple country responsibilities and spends part of his time outside India?

Contribution is payable on the total salary payable on account of the employment of the employee employed for wages by an establishment covered in India even for responsibility outside India.

10. Is there a minimum period of days of stay in India which the employee can work in India without triggering PF compliance?

No minimum period is prescribed. Every eligible International Worker has to be enrolled from the first date of his employment in India.

11. Is there a cap on the salary up to which the contribution has to be made by both the employer as well as the employee?

No, there is no cap on the salary on which contributions are payable by the employer as well as employee.

12. Is there a cap on the salary up to which the employer's share of contribution has to be diverted to EPS?

No, there is no cap on the salary up to which the employer's share of contribution has to be diverted to EPS, 1995 and the same is payable on total salary of the employee.

13. What is a Social Security Agreement (SSA)?

A Social Security Agreement is a bilateral instrument to protect the social security interests of workers posted in another country. Being a reciprocal arrangement, it generally provides for avoidance of double coverage.

14. What are the provisions covered in a Social Security Agreement (SSA)?

Generally a Social Security Agreement covers three provisions. They are:

a) Detachment: Applies to employees sent on posting in another country, provided they are complying under the social security system of the home country.

b) Exportability of Pension: Provision for payment of pension benefits directly without any reduction to the beneficiary choosing to reside in the territory of the home country as also to a beneficiary choosing to reside in the territory of a third country.

c) Totalisation of Benefits: The period of service rendered by an employee in a foreign country is counted for determining the "eligibility" for benefits, but the quantum of payment is restricted to the length of service, on pro-rata basis.

15. What is the status of the Social Security Agreements (SSA)?

Eight Social Security Agreements in respect of Belgium, Germany, Switzerland, Denmark, Luxembourg, France, South Korea and the Netherlands have been made effective from 1st September, 2009, 1st October, 2009, 29th January, 2011, 1st May, 2011, 1st June, 2011, 1st July, 2011, 1st November, 2011 and 1st December, 2011 respectively.

16. Should the eligible employees from any country other than the countries with whom India has entered a social security agreement contribute as International Workers?

Each and every worker from a country not having either SSA or bilateral comprehensive economic agreement (referred to in answer under FAQ 3) with India has to be covered mandatorily.

17. Regarding Indian employees working abroad and contributing to the Social Security Scheme of that country with whom India has a Social Security Agreement, are they coverable for PF in India or treated as excluded employees?

No, only employees working in establishments situated and covered in India may be covered in India.

18. Regarding Indian employees working abroad and contributing to the social security scheme of a country with which India DOES NOT have a Social Security Agreement, are they coverable for PF in India?

If an Indian employee is employed in any covered establishment in India and sent abroad on posting, he is liable to be a member in India as a domestic Indian employee, if otherwise eligible. He is not an International Worker.

19. Whether International Worker employed in India and being paid in foreign currency are coverable?

Yes, such nationals drawing salary in any currency and in any manner are to be covered as IWs.

20. Whether International Workers employed directly by an Indian establishment are coverable?

International Workers employed directly by an Indian establishment would be coverable under the EPF and MP Act, 1952 as IWs.

21. What is the criterion for receiving the withdrawal benefit for services less than 10 years under EPS, 1995?

Only those employees covered by a SSA will be eligible for withdrawal benefit under the EPS, 1995, who have not rendered the eligible service (i.e. 10 years) even after including the totalisation benefit if any as may be provided in the said agreement. In all other cases of IWs not covered under SSA, withdrawal benefit under the EPS, 1995 will not be available.

22. How long can an Indian employee retain the status of "International Worker"?

An Indian employee attains the status of "International Worker" only when he becomes eligible to avail benefits under the social security programme of other country by virtue of the eligibility gained or going to gain, under the said agreement on account of employment in a country with which India has signed SSA. He/she shall remain in that status till the time he/she avails the benefits under EPF Scheme. In other words, once an IW, always an IW.

23. Whether the International Worker will earn interest even after cessation of service after three years also in view of provisions of inoperative accounts?

Since the provisions of inoperative accounts are not applicable in case of international workers, they will continue to earn interest till the amount of Provident Fund is finally withdrawn.

24. Under what circumstances accumulations in the PF account are payable to an International Worker

The full amount standing to the credit of a member's account is payable in the following circumstances:

(I) persons covered SSA-

on ceasing to be an employee in an establishment covered under the Act.

(II) persons NOT covered SSA-

(i) on retirement from service in the establishment at any time after 58 years of age;

(ii) on retirement on account of permanent and total incapacity for work due to bodily or mental infirmity, duly certified by the authorised medical officer;

25. Is there a cap on the salary up to which the contribution has to be made under the EDLI Scheme, 1976 by the employer?

Yes, the cap on the salary up to which contribution has to be made under the EDLI Scheme, 1976 is Rs. 6,500.