

## EPFO issues circular on identification of Indian International Workers

19 October 2012



### Background

In October 2008, Government of India ('GOI') made fundamental changes in the Employees' Provident Funds Scheme, 1952 ('EPFS') and Employees' Pension Scheme, 1995 ('EPS') by bringing International Workers ('IWs') under the purview of the Indian social security regime.

The definition of IWs under EPFS includes two categories:

- (a) an 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 a social security programme of that country, by virtue of the eligibility gained or going to gain, under the said agreement;
- (b) an employee other than an Indian employee, holding other than an Indian passport, working for an establishment in India to which the EPF Act applies.

The EPFO clarified in May 2012 that an Indian outbound employee, who avails exemption from contributing in the other country by obtaining a Certificate of Coverage (COC) in India and contributes to the social security system in India, will not fall under the category of IW.

In a recent circular, the EPFO has further clarified the position on the eligibility and identification for Indian outbound employees for becoming IWs.

### Key clarifications provided in the Circular

The circular reiterates that an Indian outbound employee becomes an IW upon satisfaction of the following conditions:

- The Indian employee has worked in a country with which India has a Social Security Agreement (SSA);

- The Indian employee has gained or is going to gain eligibility to avail benefits under Social Security programme of that country by virtue of the SSA.

The EPFO has revised the Form 11 [Declaration by a person taking up employment in an establishment to which the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (EPF Act) applies] to ascertain the eligibility of Indian outbound employees who were employed in a country with which India has signed SSA for becoming IWs.

Currently, India has eight SSAs which are in effect. They are as follows:

Country	Effective Date
Belgium	1 September 2009
Germany	1 October 2009
Switzerland	29 January 2011
Denmark	1 May 2011
Luxembourg	1 June 2011
France	1 July 2011
Republic of Korea	1 November 2011
Netherlands	1 December 2011

### Our Comments

The aim of the current circular is to identify those Indian employees who are eligible to become IWs. Consequently, upon their identification, such Indian employees and their employers will be required to comply with the IW provisions under the EPF Act. However, further clarifications are needed for determining the eligibility of Indian outbound employees to avail benefits in the SSA countries under their social security programme to ensure proper identification.

The employers may need to review their Provident Fund compliance process in the wake of the current circular to identify, enrol and deduct contributions on full salary (as mentioned in the EPF Act) for all eligible IWs under the EPF Act. The timely application and acquisition of a COC will also become very significant for Indian outbound employees.



Source: [http://www.epfindia.com/Circulars/Y2012-13/IWU\\_22134.pdf](http://www.epfindia.com/Circulars/Y2012-13/IWU_22134.pdf)

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