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GOVERNMENT REDUCES RATES OF CONTRIBUTION FOR EMPLOYERS AND EMPLOYEES UNDER THE ESI ACT

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Introduction

On 13 June 2019, the Ministry of Labour and Employment, Government of India, issued a notification (Notification) amending Rule 51 of the Employees' State Insurance (Central) Rules 1950 to reduce the rate of the contribution required to be made under the Employees' State Insurance Act 1948 (ESI Act) from 6.5% to 4%. The Notification declares 1 July 2019 as the date on which the reduced rates of contribution would become effective.

Tracing the background and revisions in contribution rates

- The ESI Act is applicable to every factory and every establishment where 10 or more persons are employed. However, the threshold for coverage of establishments is 20 employees in the state of Maharashtra. The ESI Act provides for coverage of employees employed for wages on the premises of the establishment where such employees earn INR 21,000 (Indian Rupees Twenty-One thousand) per month or less. Once an establishment is covered under the ESI Act, it continues to be covered, notwithstanding the fact that the number of persons employed therein at any time falls below the limit as set out above.

- Under Section 39 of the ESI Act, the employer is responsible for making contributions in respect of an employee to the Employees' State Insurance Corporation with respect to each wage period within 21 days from the last day of the calendar month in which such contributions become due (i.e. the last day of the wage period), and such contribution shall comprise contribution payable by the employer (at the prescribed rate) and contribution payable by the employee (at the prescribed rate). The employer shall be entitled to recover from the employee only the contribution payable by the employee by deduction from this wages that relate to the period in respect of which the contribution is payable.

- The previous rate of contribution was fixed at 6.5% of the wages wherein the employers' share was 4.75% and the employees' share was 1.75%. However, pursuant to the Notification, the said rate stands reduced to 4% wherein the employers' share will be 3.25% and the employees' share will be 0.75%. The last revision in the contribution rates was done on 1 January 1997.

- The Employees' State Insurance Scheme (ESI Scheme) provides full medical care to the employee registered under the ESI Act during the period of his incapacity, restoration of his health and working capacity. It provides financial assistance to compensate the loss of his/ her wages during the period of his abstention from work due to sickness, maternity and employment injury. The scheme provides dependent benefits to his/her family members in the form of medical care.

- With the intention to extend social security coverage to more people, the Government of India started a programme, from December 2016 to June 2017, for special registration of employers and employees and also extended the coverage of the ESI Scheme to include all the districts in the country in a phased manner. There has since been a substantial increase in the number of employees enrolled under the ESI Scheme.

Comment

Impact on Employees: The reduced rate of contribution is expected to provide substantial relief to employees. It will bring in many more employees within the ambit of the ESI Scheme and result in an increased workforce joining the formal sector. Further, the reduced rate of contribution will in turn lead to an increase in cash in hand of the eligible employees, thereby strengthening their financial position.

Impact on Employers: The revised rate of contribution will reduce the financial liability of employers significantly. With lesser contributions to be made, employers will now have the ease of doing business and be better compliant with the law.

It may be noted that certain labour reforms have been pending for the past several years. However, with the new Government, discussions on these reforms have resurfaced. This reduced rate of ESI contribution can be considered as one of the first few steps taken by the Government in this direction and is likely to be welcomed by employers and employees.

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