

A PRACTICAL EXPERIENCE ON PF/ESI/EPS

CENTRAL GOVERNMENT CONTRIBUTION

In exercise of powers conferred under Section 6A of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, the Central Government formulated the Employees' Pension Scheme, 1995.

The benefits under the Scheme are **paid out** of the Employees' Pension Fund into which the employer and the Central Government contribute @ 8.33% and 1.16% of the wages respectively subject to a wage ceiling of Rs.6,500/-

This act is applicable to employees drawing pay **not more than Rs. 6,500 pm.** But at the time of registration the same employee pay should **not exceed Rs. 5,000.** This act deals with:

- ✓ The Employees' Provident Fund Schemes, 1952,
- ✓ The Employees' Pension Scheme, 1995, and
- ✓ The Employees' Deposit linked Insurance Scheme, 1976

APPLICABILITY:

- ✓ To every establishment **which is a factory** engaged in any industry specified in Schedule 1 and in which **20 or more persons are employed**, and
- ✓ To any **other establishment employing 20 or more persons** or class of such establishments which the **CG by notification** on the **official gazette** specifies in this behalf.

NON-APPLICABILITY:

- ✓ Establishment registered under the **Co-operative Societies Act, 1912** or under any other law for the time being in state relating to cooperative societies, **employing less than 50 person without the aid/help of power**,
- ✓ **Establishment belonging to CG or SG** whose employees are entitled to the benefit of these provident and pension funds in accordance with any scheme or rule framed by Central or State Government governing such benefits,
- ✓ **Establishment belonging to Provincial or State Act** whose employees are entitled to the benefit of these provident and pension funds in accordance with any act governing such benefits,

If once such establishment falls within this act, then the act will apply to such establishment even if the number of employee falls below 20.

SPECIAL NOTES:

Q. Is the Act applicable to a factory which is CLOSED DOWN but is employing a few employees to look after the assets of the establishment?

Ans: No, the Act would not be applicable.

Q. Is a trainee an employee under the Act?

Ans: **Yes**, but in case the trainee is an **apprentice under the Apprentice's Act** then he will not be considered as an employee under this Act.

The Employees' Provident Fund Schemes, 1952:

This act has been passed by Central Government. This fund is administered by Central Board which is administered by **Board of Trustees**.

➤ **Whether Voluntary Coverage under this scheme is allowed.**

- ✓ The establishment is allowed the coverage under the provisions of the Act on voluntary basis with the consent of **majority** of the employees.

➤ **Employee entitled and required to join Provident Fund:**

- ✓ Every employee employed **in or in connection with the work of a factory or establishment** shall entitle and required to become a member of the Fund from the date of joining the factory or establishment.

➤ **The term employee includes the following persons also:**

- ✓ who is employee for wages in any kind of work manual or otherwise, in or in connection with the work of an establishment and who gets wages directly or indirectly from the employer and
- ✓ includes any person employed by or through a contractor in or in connection with the work of the establishment

✚ Thus the term "employee" includes:

- ✚ Employed by or through the **contractor** in or in connection with the work of the establishment
- ✚ Engaged as an **apprentice**, not being an apprentice under the Apprentices Act, 1961

SPECIAL NOTE:-

✚ Basic salary

- ✓ **Equal or Less than Rs 6500/pm COMPULSORY** contribution in PF.
- ✓ **More than Rs 6501/pm OPTIONAL** to become member of the PF.

Q. Is it beneficial for employees who draw salary above Rs 6501/- to become member of Provident Fund?

Ans **Yes**, because provident fund contribution by the employer & employee is not a taxable income for Income Tax purpose.

Q. What if an employee while joining establishment has a basic salary of Rs 4200 and after some period of time his basic salary increases above Rs 6501/-, does he have an option to terminate his member ship form the Provident fund act?

Ans: Employee who while joining the organisation has a basic salary above Rs 6501/- have an option to either become or avoid becoming member of Provident fund but employees whose basic salary while joining the organisation is less then Rs 6501/- but after some period of time their basic increases above Rs 6501/- **have to compulsorily continue** to be member of PF.

Q. Which form has to be filled while becoming member of provident fund?

Ans: Nomination **Form No 2** has to be filled to become a member of the Provident fund.

Q What in case there are workers involved as **Contract labour?**

Ans: It is the responsibility of the Contractor to deduct the PF and submit a statement to the Principal Employer in the prescribed format by 7th of every month. The Company becomes the Principal Employer would be responsible for the **PF deduction of the workers** employed on **contract basis**.

Q In case the **Contractor fails to deduct and submit the PF amount from the contract workers then what is to be done?**

Ans: The Company being the Principal employer is responsible for the PF to be deducted from the Contract workers as well. In case the Contractors fails to deduct and submit the PF dues then the Company has to pay the amount and can later on recover the amount from the Contractor.

Where wages or salary or pay consists of

- ✓ Basic Salary or Wages,
- ✓ Dearness Allowances,
- ✓ Cash value of food concessions and
- ✓ Retaining allowances.
- ✓ Leave encashment.

+ Basic Wages means

- ✓ All emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case in accordance with the terms of the contract of employment and which are **paid or payable** in cash to him. **Does not include:-**
- ✓ The cash value of any food concession
- ✓ Any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance(HRA), over-time allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;
- ✓ Any presents made by the employer (Gift).

- + Retaining allowance** means allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his service **(example in sugar manufacturing mills)**.

Contribution:

➤ **EMPLOYEES':**

Contribution	Minimum	Maximum
Towards PF	12% of the pay	100% of the pay

➤ **EMPLOYER'S :**

Contribution	Maximum	Minimum
Towards PF	12% of the pay	12% of the pay

✓ **Further the employer's contribution should be divided** as follows:

- **Pension Fund (EPS)**- 8.33% of Pensionable Salary
 - ❖ Pensionable Salary: Pay or Rs. 6500/- whichever is less
- **Provident Fund** – 3.67% (12%-8.33%)

Q. Is it possible for an employee to contribute at a higher rate of interest than 12 %?

Ans: **Yes**, This is called **voluntary contribution** and a **Joint Declaration Form** needs to be filled up where the employer and the employee both have to give a declaration as to the rate at which PF would be deducted.

Q. What happens in case there is a salary revision and a raise in the basic salary of the employee and arrears need to be paid, Do we need to deduct PF from the arrears as well?

Ans: **YES**, Arrears are considered to be emoluments earned by the employee and PF is to be deducted from such arrears.

SPECIAL NOTE:-

The **rate of contribution is 10%** in the case of following establishments:

- ✚ Any covered establishment with **less than 20 employees**, for establishments cover **prior to 22.9.97**.
- ✚ Any **sick industrial company** as defined in clause (O) of Sub-Section (1) of Section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 and which has been declared as such by the Board for Industrial and Financial Reconstruction,
- ✚ Any establishment which has at the end of **any financial year accumulated losses equal to or exceeding its entire net worth** and
- ✚ Any establishment engaged in **manufacturing** of (a) jute (b) Breed (d) coir and (e) **Guar gum Industries/ Factories**.

The contribution under the Employees' Provident Fund Scheme by the employee and employer will be as under with effect from 22.9.1997.

Due Date:

- Employer is required to pay, amount received from employee, **on or before 15th of the following month**, i.e. contribution of Oct before 15th November.
- By separate Bank drafts or cheques on account of contributions and administrative charge.

Now the moot point is which "month".

- Whether the month to which salary relates or
- The month in which salary is received by the employee and contribution obtained by the employer assessee.

- ✓ Due date for payment of Provident Fund contributions is 15 days from the end of month in which wages are paid (**plus GRACE period of 5 days**).
- ✓ **EXAMPLE**→ If wages pertaining to April' 2012 is paid on, say, 7th May' 2012, due date for payment of Provident Fund contribution is 20th June' 2012 (i.e. 15th June' 2012 as increased by grace period of 5 days.)

Q. What if amount of PF paid after due date?

SPECIAL NOTE:-

- ✓ Penalty will charge at the time of PF Inspection. At the time of inspection the record, E.O (Enforcement Officer) ask you about to make the record of PF Challan contribution under different account LIKE A/C-1,10,2,21 AND 22. and date of deposit challan and Clearance date by Bank.....and if challan clear after the Due date then interest will charge by E.O under PF 7A AND 14 B (INTEREST AND DAMAGES)

DAMAGES

For 0 — 2 months delay - @ 5 % p.a.
For 2 — 4 months delay - @10 % p.a.
For 4 — 6 months delay - @ 15 % p.a.
For delay above 6 months - @ 25 % p.a.
(subject to a maximum of 100%)

INTEREST

- ✓ 12 % per annum

EXAMPLE

- PF challan last date is 15 of every month and if it is not cleared till 15th of the same u will get 5 days grace period

If it cleared on 20th ➡ No penalty and interest.

If it clear on 21th ➡ 6 days penalty and interest.

Accounting Year under PF act

- ✓ Accounting year is from March to February.

Procedure of Application:

- PF form is to be filled up along with incorporation documents, MOA, AOA, PAN, Address Proof; etc as before 30 days from the date such act becomes applicable on the establishment.

Procedure for PF registration

The following forms are to be filed for registering the establishment:

- ✓ A Detailed Application for termed as “ Performa for coverage”
- ✓ Form 5 A with Annexure I

Information required for filling up forms

- ✓ Name of The Company
- ✓ Postal Address, Telephone No and Email Address
- ✓ Details of Director/ Managing Director/ Partners – Address, Ph. No, email ID
- ✓ Details of Authorized Signatory (in case whose is signing in the place of Director)
- ✓ Nature and Date of Commencement of Business
- ✓ Date of Joining of Employees, Father Name, DOB
- ✓ Salary, PF Statement and Bank Account Details of the Company

Documents required for filling up the Forms

- ✓ Incorporation Certificate of Company in case of private limited company and Certificate of Registration of Firm in case of Partnership Firm.
- ✓ MOA & AOA in case of Private Limited Company and Partnership Deed in case of Partnership Firm.
- ✓ Rental Agreement/ Lease Agreement of Company
- ✓ Company/ Firm PAN Card
- ✓ Address Proof of Director/Partners – Lease / Rental Agreement
- ✓ ID Proof of Director/ Partners – Pan Card / Election Card/ Passport/ Driving License
- ✓ List of Directors/ Partners
- ✓ Registration copies with other Departments like. VAT, PT, Labour dept.
- ✓ First Invoice raised from the company/ Firm
- ✓ True copy of Board resolution empowering company representatives as Authorised signatories

Once documents are filed the PF Authorities carry out a physical inspection of the premises and verify all original documents. On satisfaction, the business is granted with a PF allotment letter.

Nomination by a member

- ❖ Compulsory to make a nomination for every employee under the PF scheme
 - ✓ **If he has a family**, he has to nominate one or more person belonging to his family and none other
 - ✓ **If he has no family** he can nominate any person or persons of his choice
 - **Condition** if he subsequently acquires family, such nomination becomes invalid and he will have to make a fresh nomination of one or more persons belonging to his family.

You cannot make your brother your nominee as per the Acts.

Withdrawal: (FOR BRIEF SEE Q.NO 3 BELOW)

Funds can be withdrawn by filling up **Form-19**.

- An employee can withdraw the amount **only if** he does **not get into employment** for the **2 month's period**.
- This requirement of **2 months is not applicable if girl withdraws** such amount for her **marriage**.

Procedure for withdrawal of PF & Pension Monies

- ✓ A member is eligible to apply for withdrawing his provident fund and pension fund only after 2 months from the date of resignation, provided that he / she is not employed during the said 2 months.
- ✓ The member should submit Form 19 to withdraw his provident fund dues on leaving service/retirement/termination.
- ✓ To claim pension, the member is required to submit Form 10 C.
- ✓ The member needs to fill in Forms 19 and 10C and get it signed from the previous employer and submit it to the provident fund office (in many cases, the employer will themselves help by submitting the forms).
- ✓ Normally, it takes about 40 days to have the monies credited to the bank account of the

member after submission of the relevant forms.

Members face PROBLEMS in withdrawing the PF monies. Some normal reasons are:-

- ✚ Mismatch of Signature of the employer/ Member
- ✚ Mismatch of Signature of the member
- ✚ Mismatch of Provident Fund Account number of the member
- ✚ Incorrect bank account details furnished by the member
- ✚ Incorrect address given by member
- ✚ Mismatch of date of joining / resignation
- ✚ Communication from PF department while processing the request would not have reached the employer
- ✚ Failure of employer to remit the PF amount recovered from members to PF Account
- ✚ Member might have changed his / her official name and the same has not been informed to the provident fund office
- ✚ Change in Authorized Signatory of the employer when the application is in process

Advance: (FOR BRIEF SEE Q.NO 3 BELOW)

- Advance can be taken on this account
 - ✓ For marriages (self, siblings, children, etc),
 - ✓ Buying a house,
 - ✓ Major surgical operations,
 - ✓ Repayment of loans and in certain cases, etc

This amount is non-refundable in nature.

Transfer of PF monies: Form-13

- Provident fund can be transferred in case person goes for another job at another place after filling up relevant Form.

Online Provident Fund facility:

Now online facility of EPF is available. One can see the members detail, correct the information present. **DSC of the authorized person is required for online submission of claims (CLASS-2).** Here,

- ❖ User name and password is required,
- ❖ The form here is '**Transfer Claim Form**' instead of Form 13,
- ❖ Form can be presented to present or previous employer for scrutiny,
- ❖ Physical filing is also permissible.

Procedure Transfer of Provident Fund monies from previous employer to current employer

A resigned employee who joins another company is left with an option of transferring the PF monies from his previous PF account to the current PF account, by filling the Form 13.

Form 13

- When an employee joins new company and he wishes to transfer his previous company provident fund amount, he should inform the HR department or Accounts department of the new company.
- The **employer will issue Form 13**, in which the member has to fill the details of previous company like – name, address, provident fund account number and address of the

provident fund office where the account was held.

- On form 13, the **signature of the previous employer is not required**.
- Once he fills the required details and submit it to the current employer, the **current employer will forward it to the provident fund office for transferring process**.
- The time taken for transferring the fund from one account to other account normally takes about 40 days from date of submission.

Problem during Transfer of Monies

In the case of transfer and when the **previous employer is an exempt establishment** (which means, having **own PF trust**), then procedures is that

- ✓ The current employer should forward the transfer form (Form 13) to the previous employer who will process a cheque (after validation) in favour of PF office of the current employer
- ✓ It will be sent to the current employer.
- ✓ It becomes the responsibility of the current employer to submit the cheque along with a request letter to the PF office for transferring the monies. Here, **the normal problems that might occur are:**
 - ✚ Previous employer might have changed their address
 - ✚ Documents lost in transit / do not reach the concerned department
 - delay in processing the application for reasons like tedious internal processing procedures, processing person is on vacation / busy on some other assignments, signatory not available etc

The Employees' Pension Scheme, 1995:

- The purpose of the scheme is to provide for
 - ✓ Superannuation pension.
 - ✓ Retiring Pension.
 - ✓ Permanent Total disablement Pension
 - ✚ **Superannuation Pension:** Member who has rendered eligible service of 20 years and retires on attaining the age of 58 years.
 - ✚ **Retirement Pension:** member who has rendered eligible service of 20 years and retires or otherwise ceases to be in employment before attaining the age of 58 years.
 - ✚ **Short service Pension:** Member has to render eligible service of 10 years and more but less than 20 years.
- Government has introduced this scheme under **section 6A, to CLAIM** this:
 - ✓ Have attained 58 years of age, or
 - ✓ Retirement, or
 - ✓ Permanent total disablement, or
 - ✓ Children pension, or
 - ✓ Orphan pension.

Q. Eligibility to enjoy pension scheme?

Ans Employee has to complete membership of the Fund for 10 Years i.e. continuous service.

Q. Meaning of continuous service of ten years?

Ans Example, an employee who has worked with:-

X company 3 years, resigned

Y Company 2 years, resigned

Establishment for 5 years

But during these 10 years of service he **has not withdrawn but transferred his Employee pension fund**, and then we say continuous service of ten years.

Q What happens to the provident fund & Employee Pension fund if an employee who wants to resign from the service before completion of ten years of continues service?

Ans: Employee **can withdraw** the PF & Pension accumulations by filling Forms 19 & 10 C.

ESI (Employee state insurance)

- ✓ **Salary** means Gross Salary including metro allowance but excluding laundry allowance, entertainment allowance etc.
- ✓ **Employee's** contribution rate is 1.75% of the wages and
- ✓ **Employer's** is 4.75% of the wages paid/payable in respect of the employees in every wage period.
 - **Employees in receipt of a daily average wage upto Rs.100/- are exempted from payment of contribution.**
- ✓ It has been calculated on the basic of gross pay per month and maximum limit is upto Rs.15000/-.

✚ An employer is liable to pay his contribution in respect of every employee and deduct employees contribution from wages bill and shall pay these contributions at the above specified rates to the Corporation **within 21 days of the last day of the Calendar month** in which the contributions fall due.

✚ The Corporation has authorized designated branches of the State Bank of India and some other banks to receive the payments on its behalf.

EXAMPLE

- ✓ Salary more than 15,000/- then we don't have to remit contribution for him towards ESI. But please note that a remittance to ESI is counted as **two contribution periods. ie April to September and October to March.**
 - ✓ If an employee's salary is 9000 in April he has to remit ESI contribution. If in May he got a promotion and his salary in May is 15500 then also ESI should be deducted from him even though his salary is more than 15000. This should continue till the end of the contribution period i.e. up to September.

GRATUITY

Formula:- Last drawn salary(Basic+ DA)*service in years *15/26

SHORT CUT WAY → 4.81% of Salary.

- ✚ The maximum amount payable as per law is Rs 3, 50,000/- which is not taxable, beyond it is taxable.
- ✚ It is enforced by Law.

EXAMPLE:-

- ✓ Suppose basic including DA is Rs.10,000 and length of service is 5 years
- ✓ Example like : $10000 \times 5 \times 15/26 = 28846$.
- $4.8\% \times 10000 = 481$ per month 5 years means 60 months $481 \times 60 = 28860$.

Shortcut method

Q1. When I left my earlier company, I opted for the withdrawal (form-19) of my provident fund money that was being maintained by the company in a trust. The company deducted tax on withdrawal. I was under the impression that Employees Provident Fund is tax-free. Also, if I withdraw money from my Public Provident Fund account will that also be subject to tax?

Answer. – We presume your earlier company maintained a **recognized provident fund** account, which is referred to as RPF. On withdrawal from RPF at the time of termination of service, the accumulated balance is **exempt from tax only if you** have been in **continuous service** for a period of **five years or more**. Service rendered to the previous employer is also to be included. If the continuous service is less than five years due to reasons beyond your control (ill health, or discontinuance of employer's business), you still will be eligible for exemption. If not, then you will be taxed on withdrawal of the accumulated balance from the RPF. Withdrawals from the PPF account is based on defined eligibility criteria. Such withdrawals are not taxed.

Q2. I have got an offer from a company who has filed for an exemption from Provident Fund laws.

1. Is it legal to have such exemptions?
2. What are my alternatives to proceed with this company with respect to my PF account with my current company?
3. Can I still contribute to the PF account and what will be the tax benefits on the same?

Answer. Section 16 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, stipulates certain conditions that need to be satisfied for an establishment to be exempted from the operation of this Act. So it may be possible that this company is availing of the exemption legally.

In respect of your PF account with your earlier employer, you could choose either of the following propositions:

- ✓ Close the account and withdraw the balance lying to your credit. If your contributions are pertaining to five or more years of continuous period of employment, then there would be no tax impact on such withdrawal. **OR**
- ✓ Transfer the balance PF from your old employer to your new employer. In this case, though, there would be no fresh contributions during your employment with the new employer.

Q3. Can I take a withdrawal/advance from the balance accumulated in my Provident Fund account?

A. Yes, you can take a **withdrawal/advance** from your Provident Fund account. Here is the process:

- **Upon resignation or retirement** from an establishment you can apply for PF withdrawal using **Form 19**. Withdrawal is allowed under two options:

- ✓ If the member has attained 55 years of age; or
- ✓ The member should not work in any covered establishment for a period of 2 months from the exit date.

Additionally, you also have an option to **withdraw funds from your Employee Pension Scheme**. If you choose to do so, you will need to file an application using **Form 10C**.

- You can also take an **advance from your Provident Fund account**, but only for certain specified purposes. The application for an advance is made using **Form 31**. Advance may be availed for the following purposes:
 - ✓ Marriage expenses for self, son, daughter and brother / sister
 - ✓ Education for self, son, daughter
 - ✓ Medical treatment
 - ✓ Purchase or construction of dwelling house.
 - ✓ Repayment of housing loan
 - ✓ Purchase of plot
 - ✓ Addition or alteration of house
 - ✓ Repair of house
 - ✓ Lockout or closure of establishment by employer
 - ✓ Withdrawal prior to retirement
- Please note that the amount of **advance or withdrawal is not required to be refunded back into** the account under normal circumstances.
 - ❖ **Exception** → However, if the amount is not utilized for the specified purpose, then the same will need to be refunded with penal interest.
- A **FIXED MINIMUM BALANCE** in the account has to be maintained before arriving at the amount of advance that can be taken from the account.

GENERAL POINTS

The Government accounts in which the PF dues are required to be deposited.

- ✓ The PF dues are required to be deposited as follows:
 - 12% of the Pay, **Employees** Provident Fund Contribution – **A/c No. – 1**
 - **Voluntary** Provident Fund Contribution – **A/c No. – 1**
 - 3.67% of the employer contribution, Employer Provident Fund, – **A/c No. – 1**
 - 8.33% of the **Pensionable** Salary (EPS)-**A/c No. – 10**
 - 1.10% of the Pay, **PF Admn. Charges**-Minimum Rs. 5/-pm, **A/c No. – 2**
 - 0.50% of Pensionable Salary for **EDLI** contribution-**A/c No. – 21**
 - 0.01% of Pensionable Salary for **EDLI administrative charges** – Minimum Rs. 2/-pm., **A/c No.-22**

Interest rate as applicable to EPF Account

- ✓ Interest is calculated on the **monthly running balance** of the member
- ✓ Interest on provident fund accumulations **exempt from income tax**

Is it possible to appeal the orders of the Central Government or the Central Provident Fund Commissioner?

- ✓ Yes, in Provident Fund Appellate Tribunal where an employer can appeal.

Illustration on EPF contribution and their tax treatment

A ltd has paid salary (pay as per EPF ACT) for the month of March 2009 as RS. 1,20,00,000.00 in April 2009. The return filing date of the company under IT Act is 30th Sep 2009. Then the due dates and amounts of contribution are as follows:

Employer's contribution @12%	Employees' contribution @12%	Due date as per EPF Act, 1952	Due date as per IT Act, 1961
14,40,000.00	14,40,000.00	20 th May 2009	Sep 30 th 2009

Now different combination for employees' and employer's contribution is:

<u>Particulars of contribution</u>	<u>Amount payable</u>	<u>Date of payment</u>	<u>Tax treatment in the hands of the employer</u>	<u>remarks</u>
Employees'	14,40,000.00	Before 20th May 2009	First add amount payable to income u/s 2(24)(x) and then allow deduction u/s 36(1)(va) in the F.Y.	If paid by cheque, the cheque should be cleared within 15th days of the due date i.e. 5th June 2009

			2008-09	
Employees'	14,40,000.00	after 20th May 2009	add amount payable to income u/s 2(24)(x) in the F.Y. 2008-09	No remarks
Employer's	14,40,000.00	Before 20th May 2009	Amount payable is Fully allowable in the F.Y. 2008-09	If paid by cheque, the cheque should be cleared within 15th days of the due date i.e. 5th June 2009
Employer's	14,40,000.00	after 20th May 2009 but before 30th sep 2009 (ITR due date.)	Amount payable Fully allowable in the F.Y. 2008-09	If paid by cheque, the cheque should be cleared within 15th days of the due date i.e. 5th June 2009
Employer's	14,40,000.00	after 30th sep 2009 (ITR due date.)	Amount payable is disallowed in the F.Y. 2008-09	Allowed in the year in which finally paid

Illustrations on the above point:

Month of salary	Month of payment of salary	Payment due date
April 2008	May 2008	June 15th 2008 + 5 grace days
May 2008	June 2008	July 15th 2008 + 5 grace days
June 2008	July 2008	Aug 15th 2008 + 5 grace days
July 2008	Aug 2008	Sep15th 2008 + 5 grace days
Aug 2008	Sep 2008	Oct 15th 2008 + 5 grace days
Sep 2008	Oct 2008	Nov 15th 2008 + 5 grace days
Oct 2008	Nov 208	Dec 15th 2008 + 5 grace days
Nov 2008	Dec 2008	Jan 15th 2009 + 5 grace days
Dec 2008	Jan 2009	Feb 15th 2009 + 5 grace days
Jan 2009	Feb 2009	Mar 15th 2009 + 5 grace days
Feb 2009	Mar 2009	April 15th 2009 + 5 grace days
Mar 2009	April 2009	May 15th 2009 + 5 grace days

Summarized table showing tax treatment of provident funds

Fund		During Continuity of Job		Upon Retirement
	Employee's Contribution	Employer's Contribution	Interest on Provident Fund	Repayment of sum on retirement, resignation or termination
RPF	Deduction under Section 80C is available.	Exempt upto 12% of Salary. Thus Contribution made by employer exceeding 12% shall be added to employee's salary Income.	Exempt upto 9.5%. Interest exceeding 9.5% shall be added to employee's Salary Income.	Nothing is taxable subject to following conditions: ✓ Employee left the job after five years of service OR ✓ Where Period of service less than 5 years, the termination is due to ill health, discontinuance of business of employer. OR ✓ Here on re-employment, the balance in R.P.F is transferred to R.P.F with new employer. [For the purpose of computing 5 years period, Period of services rendered with previous employer shall also be included. If none of the above conditions are satisfied then: ✓ The amount not taxed earlier shall be taxed in the same manner as URPF, given below. ✓ Any tax concession (e.g. 80C) availed by assessee for contribution to RPF shall now be withdrawn.

FOR TAX AUDITOR PURPOSE

The ICAI views on the same

Also The ICAI has in its publication “ISSUES on TAX Audit 2003 revised” given in clause 16(b) the following views on EPF contribution collected by the employer from his employees:

U/s 16(b) ———→(On tax audit report)

Any sum received from employees towards contributions to any provident fund or superannuation fund or any other fund mentioned in section 2(24) (x) and due date for payment and the actual date of payment to the concerned authorities under section 36(1)(va).

✚ **Kindly clarify whether it is mandatory to mention the cases where employers have not deducted/collected P.F. etc. from the employees.**

✓ NO, the **objective of the above sub clause** is to see whether the sum so recovered from employees has been treated as income under section 2 (24) (x).

✚ **Whether expenditure is allowable if paid before due date of filling income tax return?**

✓ Section 36(i) of the Income tax Act —→ Employer's contribution **YES**

✓ Section 43B of the Income tax Act —→ Employer's contribution **YES**

✚ **The assessee applied for a P.F. No. in time but the same was not allotted within a reasonable time due to departmental delay. The assessee duly made a provision for the contribution by the employer in its profit and loss account and balance sheet. But the same could not be remitted to the authorities because of the non-allotment of P.F. No. Please clarify the duty of the tax auditor in this regard.**

✓ The objective of sub-clause (b) is to get information in respect of sums recovered from employees towards provident fund contributions etc. and the dates on which such contributions were remitted to the statutory authorities. This information is necessary to determine the allowability of the payment of such contributions under the provisions of section 36(1)(va).

❖ In the given issue the assessee has not remitted the contribution to the statutory authorities, whatever be the reasons therefor. **The tax auditor has to indicate the factual position in this regard.**

✚ **Please clarify how a tax auditor can verify the details of payments of P.F. contributions etc. in the case of **tax audit of the accounts of a sub-contractor** particularly where the liability on this account is on the main employer?**

✓ Many a time in the construction industry the main contractor subcontracts portions of the main contract to various sub-contractors.

❖ Such sub-contracting may of **two types.**

1. Firstly, the sub-contractor may be asked to execute the **sub-contract merely as an agent** while the main contractor will assume responsibility for recoveries of P.F., ESI contributions and remittance of the same to the statutory authorities. **In this case the tax auditor** of the subcontractor need not report under this clause because the subcontractor is not responsible either for collection or remittance of the P.F. contributions etc.

2. Subcontractors who may **independently execute** such sub-contracts by employing labourer's etc. In such a situation the employer – employee relationship exists between the sub-contractor and the workers and the responsibility for recovering P.F. contribution etc. and remitting the same to the statutory authorities wholly rests with the sub-contractor. **In this case the tax auditor** has to comply with the requirements of this clause.

USEFUL FORMS FOR COMPLIANCE

- **Form-19:** To claim final settlement of Provident Fund by a member.
- **Form-20:** To claim Provident Fund by nominee/legal heir on death of the member.
- **Form-10-D:** To claim pension. (In duplicate: If within state, In triplicate: If outside state.)
- **Form-10-C:** To claim withdrawal benefit/scheme certificate under Employees' Pension Scheme '95.
- **Form-5IF:** To claim assurance benefit under Employees' Deposit Linked Insurance '76 by nominee/legal heir of a member.
- **Form-31 :** To claim temporary withdrawal/advance under Employees' PF scheme
- **Form-13:** To effect transfer of Provident Fund/Pension from one A/C to another.
- **Form-9(Revised):**

The details of employees enrolled as members of Employees' Provident Funds'52, Employees' Deposit Linked Insurance'76 & Employees' Pension Scheme'95 on coverage of the establishment- This is to be submitted immediately after coverage, within 15 days of coverage.
- **Form-12A:**

The details of the contributions recovered from the members & paid along with details of employers' contribution & administrative charges- This is to be submitted monthly by 25th of following month.
- **Form-5:**

The details of the employees enrolled newly to the Provident Fund- To be submitted along with **Form-12A** every month within 15 days of the following month.
- **Form-10:**

The details of the employees leaving service during the month- To be submitted along with **form-12A**.
- **Form-2(Revised):**

Nomination form- To be submitted along with **form-5/9**.
- **Form-3A:**

The details of wages & contributions in respect of each member, to be prepared financial year wise- To be submitted to the Provident Fund office by 30th of April every year.
- **Form-6A:**

Yearly consolidated statement of contributions- To be forwarded yearly along with form-3A. It should be ensured that all the form-3A are entered in form-6A, irrespective of whether the form-3A was forwarded for the broken period and the total dues as per the form-12A for the whole year agrees with the total of form-6A within 30th April.
- **Form-5A:**

Return of ownership of the establishment- To be forwarded immediately after coverage & whenever there is a change in the ownership, it has to be intimated within 15 days of change.

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