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Provident Fund Withdrawal For Expats in India

Exploring Possible Roadblocks

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How Did It Begin?

The year was 2008.

India made it mandatory for all the expats (international workers) to contribute towards pension and provident fund (Indian social security schemes). **The employer and employee had to make a matching contribution of 12% each towards the scheme.** The silver lining in all this - the contribution was tax-free. So was the interest earned on it and its withdrawal after 5 years of continuous service.

Much before all of this, India had also started entering into Social Security Agreements ('SSA') with several countries. As per the SSAs, upon production of a Certificate of Coverage ('CoC'), an expat from any of the signatory countries need not participate in the social security schemes of India and vice versa. Currently, India has signed SSAs with 20 countries/ jurisdictions - Japan, Korea, Canada, to name a few. Negotiations are underway for several other nations such as the US and the UK.

So, if an expat is unable to produce a CoC, he / she will have to compulsorily contribute to India's social security fund. However, withdrawal of the money contributed is permissible upon assignment completion only.

For an expat from a non-SSA country, though, the funds can be withdrawn only upon attaining the age of 58 years.

India has effective SSAs with Austria, Australia, Brazil, Belgium, Canada, Czech, Denmark, Finland, France, Germany, Hungary, Japan, Korea, Luxembourg, Netherlands, Norway, Portugal, Quebec, Sweden, and Switzerland.
SSAs with Brazil and Quebec are not operational yet.

Benefits By SSAs To Expats:

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01 **Detachment -**

Expats are 'detached' from the social security schemes of India provided they continue to make contributions in their home country.

02 **Exportability of Pension -**

Upon completion of their assignments of a specified duration, expats can 'export' the benefits from the host country to the home country.

03 **Totalisation of Benefits -**

For calculating the employment period to measure the social security benefits of either Japan or India, the duration for which the expats were employed in both the countries will be considered in 'totality'. The payment of the benefits will be restricted to the length of the period served in the respective countries on a pro-rata basis.

Let's Simplify The Benefits Available To Expats From SSA Countries-

Case A – Expat submitted CoC obtained from their home country (SSA country) in India

Such expat is **EXEMPTED** from participating in Indian PF

Case B – Expat from an SSA Country, being locally employed in India was unable to obtain CoC from their home country

Participation in PF scheme →	**Mandatory**
Withdrawal of PF contribution →	**Permitted upon completion of Indian assignment**

Case C – Expat belongs to a NON-SSA country

Participation in PF scheme →	**Mandatory**
Withdrawal of PF contribution →	**Not allowed until expat's age is 58 years**

Some Important Developments In India's Social Security Laws With Respect To Expats

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2014	An amendment excused expats coming to India on or after September 2014, from participating in pension scheme. Entire contribution should now be made to the PF Fund
2020	In 2020, the laws were further amended. Employer's contribution to provident fund exceeding INR 7,50,000 and the interest earned thereon was made taxable
2021	Another amendment in 2021 made interest on employee's contributions exceeding INR 2,50,000 taxable

As Of 2022, The Taxability Of Provident Fund Contribution For Expats In India Looks Like This:

<table>
<tr><th></th><th>CONTRIBUTION STAGE</th><th>EARNING STAGE</th><th>WITHDRAWAL STAGE</th></tr>
<tr><td>Employer (ER)</td><td>ER Contribution > INR 7,50,000 TAXABLE as perquisite</td><td>Interest on ER contribution exceeding INR 7,50,000 TAXABLE as perquisite</td><td rowspan="2">Withdrawals are EXEMPT only if contribution made for 5 years.

Employment in India is typically less than 5 years for expats; consequently, withdrawals are taxable</td></tr>
<tr><td>Employee (EE)</td><td>EE Contribution available as TAX DEDUCTION up to INR 1,50,000 (Section 80C)</td><td>Interest on EE contribution exceeding INR 2,50,000 now TAXABLE</td></tr>
</table>

How Is It Going?

With a CoC in place, expats need not contribute anything to India's social security (Provident Fund).

Without a CoC though, there is no escape from social security contributions. So, trouble brews, when being employed directly in India, expat is unable to procure a CoC from their home country. Nonetheless, the SSAs still allow the expats to withdraw money contributed to India's social security funds at the end of the assignment

Problem Solved! Or Is It?

Well, withdrawal of PF money from India becomes a rather tricky affair in some cases.

Take the case of Honoka San - a Japanese expat who arrived in India in 2018, as a direct hire of her Indian employer. The employer contributed towards both her pension and provident funds. Her father's name was lost in translation and he became Aaoi San from Aoi San with the PF authorities. Upon her departure in 2020, her Indian bank account was closed. And with it dimmed down the chances of her getting her PF contribution back - a whopping **₹ 5 million!**

Her application was rejected on multiple grounds by the PF authorities:

⚠ **Mismatch in employee details**

Aoi → Aaoi

Her father's name with the PF department and in her PAN card did not match.

⚠ **Discrepancy in contribution**

Her employer contributed to both pension and provident funds when he should have contributed only to the provident fund.

⚠ **Closure of Indian bank account**

Although it is no longer mandatory for expats to maintain an Indian bank account, receiving PF accumulations in overseas bank accounts can be extremely challenging, if not impossible.

What followed was an ordeal to get the money to which she was rightfully entitled. It's been 2 years now, and the battle continues.

The Way Out

- Get the expat's documents - visa, passport, bank details, etc. - in order
- Thorough scrutiny of the documents to be submitted to the PF authorities ensures that applications are not rejected due to trivial issues such as a mismatch in name or date of birth
- The employer should be cautious in depositing his contribution only to PF and not the pension fund for expats starting their assignments after September 2014
- The expat's 'KYC' should be completed diligently
- Keeping the expat's Indian bank active until PF dues are received would be the best-case scenario

Did you know that having a valid AADHAAR is not mandatory for expats seeking Provident Fund withdrawal? In this case, the expat can file a physical application with the Provident Fund authorities without mentioning the AADHAAR number.

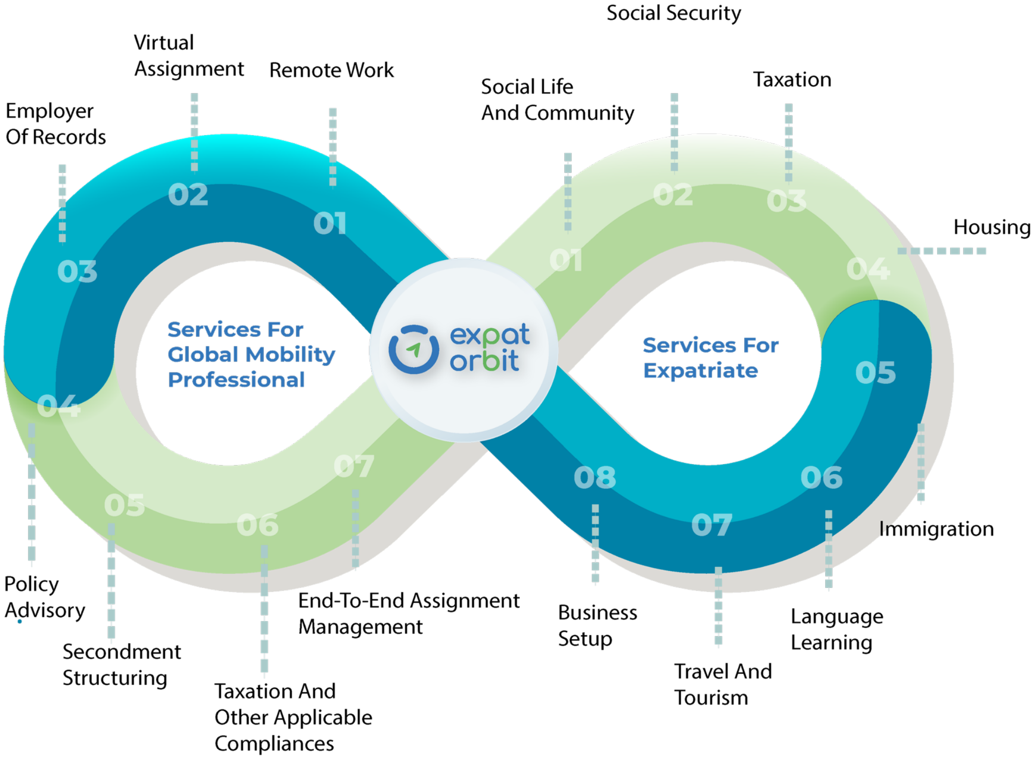
Expert's View

"An incomplete or incorrect refund application is a lose-lose situation for all parties involved - companies, expats, and the PF department. Applications with gaps - mismatched details, incomplete KYC, incorrect contributions, and so on, force the department to reject withdrawal requests. As a result, everyone's workload increases. Expats and their employers must therefore submit thoroughly scrutinised applications. Having AADHAAR is a bonus-the department can very smoothly process online applications, provided the details are right."

K.C. Pandey, Former Additional Provident Fund Commissioner (EPFO)

The Expat Orbit Way

We, at Expat Orbit, have successfully handled tax and PF-related matters for expats. We have successfully handled cases where clients' applications were rejected 5-6 times before they came to seek professional help from us. Our understanding of social security laws, hawk-eye review of documents, and industry best solutions smoothen the PF withdrawal process. Even if some part of the contribution was wrongly pension-ed or the Indian bank account closed before the receipt of funds, our unique solutions make sure that our clients' get their rightful dues timely.



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