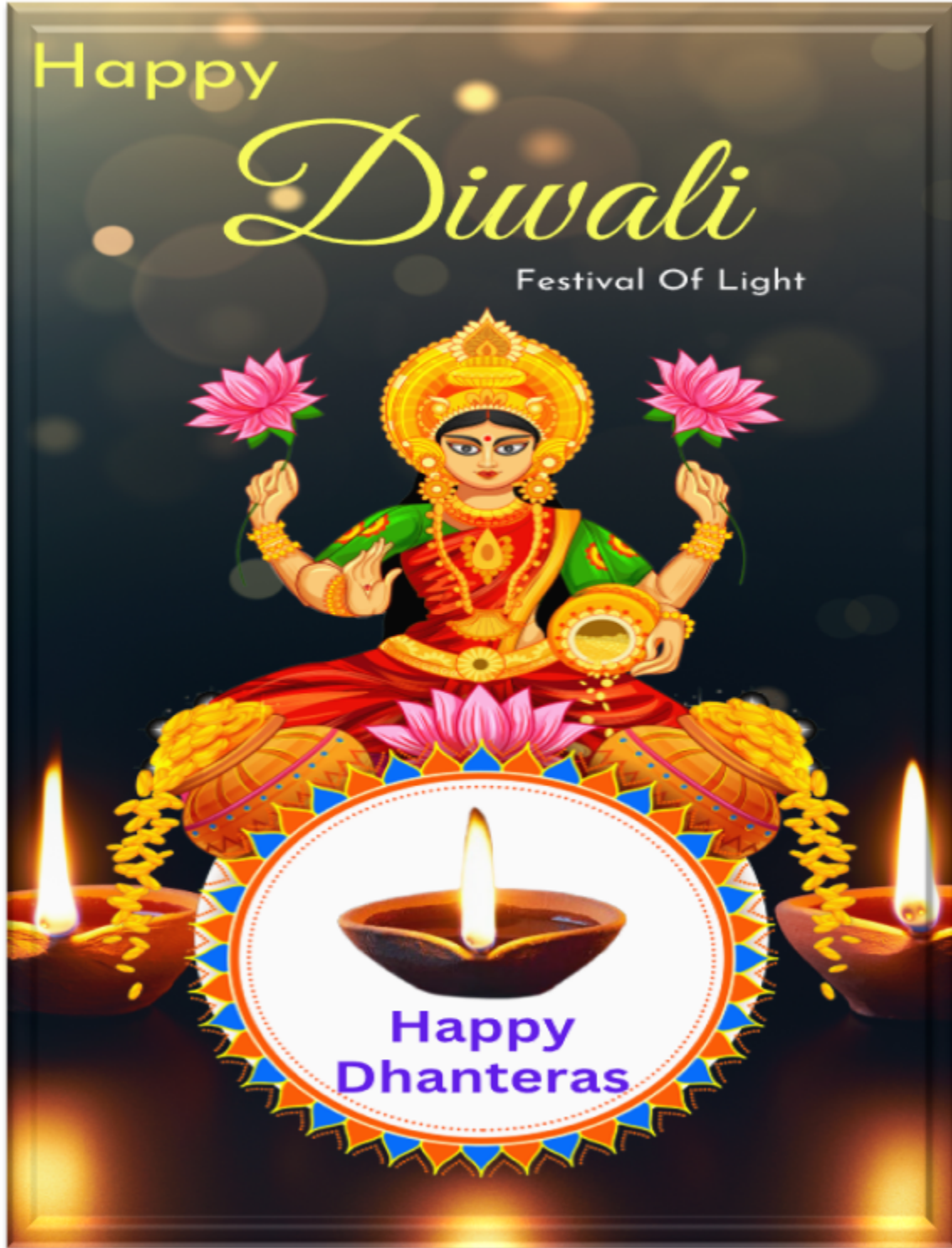


HRV POST

WEEKLY NEWSLETTER



HR VIDYALAYA CORPORATE SERVICES LLP





WISHES

Readers, Patrons, Clients and Well-Wishers a Happy Diwali







Statutory Updates:

1. Tamil Nadu - Factory License renewal (if due by December 2024), due date to Renewal without Fine is – 31st October 2024
2. Form ER-I, Employment Exchange Act return filing – due by 31st October 2024 (for the quarter July to September)

Where an Employer is non-conformant, it becomes a major challenge for worker/employee specifically Women employee....

-  There are classic examples, where “Poor women employees” approach ESI for maternity benefit and comes to know that the deducted ESI amount was not remitted, and benefit is declined.....
-  Or employees could not be able to avail Sickness benefits for the same reason....
-  ESI may issue notice and Employer may reply/pay damage & interest later.....
-  **But will the baby wait till that time? Or the sickness will get postponed?**

This is current situation.... This is going to change once the Code on Social Security is notified with insertion of new provisions..... in favour such employees..... Expect the Government to notify at the earliest.

<p>Excluded Employee (No PF required) New Joinee - Domestic Worker</p>	<p>Excluded Employee (No PF required) New joinee - International Worker</p>
<ul style="list-style-type: none">  an employee who, having been a member of the Fund, withdrew the full amount of his accumulations in the Fund and whose pay at the time of joining exceeds (fifteen thousand rupees) per month  an employee (First timer) whose pay at the time he is otherwise entitled to become a member of the Fund, exceeds [fifteen thousand rupees] per month.  An apprentice means a person who, according to the certified standing orders applicable to the factory or establishment, or who is declared to be an apprentice by the authority specified in this behalf by the appropriate Government; (Act Apprentice)  a person (First timer) with benchmark disability, whose pay at the time he is otherwise entitled to become a member of the Fund, exceeds twenty- 	<ul style="list-style-type: none">  an International Worker, who is contributing to a social security programme of his country of origin, either as a citizen or resident, with whom Indian has entered into a social security agreement on reciprocity basis and enjoying the status of detached worker for the period and terms, as specified in such an agreement; employee should come with a Detachment Certificate issued by the Host Country, 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 into 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

Do you want to know the MANTRA/s, that will protect you as an Organization from all challenges from EPFO & other External Assessments?

1. **REGISTRATION OF ORGANIZATION:** Once your establishment reaches 20 or more employees – On Roll, Contractual Employees through Third Party Vendors, Direct Contract Employees, and any Persons who were engaged for a Compensation – consider all for HEAD COUNT of 20.
 - a. For eg. your on-roll head count is 12 and contractual employees through vendor is 10. You as an Employer is required to Obtain code and consider PF for applicable employees
 - b. Once Registered, you are covered, irrespective of the total head count goes down
 - c. Consequently, even if you do not engage any 'persons', due to various reasons - you need to pay Administration Charge, every month
 2. **CONSIDERATION OF EMPLOYEES AS PF MEMBERS:** On Roll, Direct Contract Employees and any Persons who were engaged for a Compensation – eg. Trainee, Apprentice (who were not as per the Apprentices Act or Apprentice as per Certified Standing Order), Temporary, Part-time workers, etc. Only Academic Trainees engaged without Compensation & Apprentice engaged as per Apprentices Act are excluded, on the face of it. Few more Exclusions are discussed separately in this Newsletter.
 3. If the new joinee is already having a UAN, use the same in the current employment.
 4. If No AADHAR for the new joinee, do not engage even if he/she/they - crucial to your Business
 5. **CONSIDERATION OF PERSONS AS PF MEMBERS:** @ the time of Person joining your Company
 - a. Check whether the new joinee is already having UAN and not withdrawn the accumulations
 - b. Check whether the new joinee is a Benchmark Disabled Persons
 - c. Check whether the New Joinee, has passport other than Indian – International Worker
 - d. You can Exclude any International Worker from SSA country who comes with Detachment Certificate or Declaration from Authorised Agency if the Employee is from Singapore
 - e. Check the age of the new joinee –if the age is 58+ then Pension is not to be considered
 - f. When you want to retain an PF covered employee even after completion of 58 years of age, consolidate the contributions (Employee and Employer) only towards EPF. No EPS.
 - g. A First timer with PF wages above Rs.15,000 shall needs to contribute only to EPF. No EPS.
 - h. Consider Bhutanese and Nepalese as Domestic Worker.
 6. **CONSIDERATION OF WAGES FOR PF DEDUCTION:** Exclude HRA and any other Variable allowances (which is paid specifically for extra output by the employee). Include all allowances upto Rs.15,000 (current PF Ceiling Wages). Do not split Minimum Wages into other components including HRA, for avoiding PF.... It is considered as Subterfuge wages.
 7. **CONSIDERATION OF WAGES FOR INTERNATIONAL WORKER:** All monies paid in India and abroad for the work performed by such International Worker, excluding “applicable HRA”
 8. **CONSIDERATION OF WAGES FOR BENCHMARK DISABLED WORKER:** The PF Ceiling is Rs.25,000
 9. As an Employer You Can Restrict PF upto Rs.15,000 maximum for all employees except International Worker and Benchmark Disabled Worker
 10. Do not deduct Employer Contribution from the Wages of Employee – Except in case of CTC model
 11. Do not reduce Wages to avoid PF
 12. Filing mandatory monthly IW Return, Ensuring e-nomination for all members, Updation of Exit Date at the right time, Approval of any claims at the right time, etc.
 13. Update details – for any change in Employer Details (Ownership) in Form 5A, as & when required
- EMPLOYER'S DUTY IS TO CONSIDER APPROPRIATE EMPLOYEE, AS A PF MEMBER, UPLOAD APPROPRIATE DETAILS, RIGHT DEDUCTION & REMITTANCE OF PF and MARKING APPROPRIATE SEPARATION..... More than this nothing is expected nowadays....

Time to Pay Statutory Bonus

Objective of the Payment of Bonus Act is - to make an equitable distribution of surplus profits

Applicability

- HR-V Every Factory with 10 or more employees
- HR-V An Establishment with 20 or more employees
- HR-V If Profit and Loss accounts are prepared and maintained separately that such branch is treated

Eligibility

- HR-V Any person employed for wages, not exceeding Rs.21,000/month
- HR-V Salary or wages includes Dearness allowance but no other allowances
- HR-V Apprentice under Apprentices Act are not eligible for Bonus
- HR-V Pro-rate if eligibility is for few months of the Accounting Year

Payment of Bonus

- HR-V Eligible employee, if he/she/they had completed 30 working days in that Accounting Year
- HR-V A minimum Bonus of 8.33% of wage or Rs.100 whichever is higher.
- HR-V A maximum of 20%
- HR-V Within 8 months of close of the accounting year (i.e. before November 30)

Disqualification of Bonus

- HR-V Dismissed employee for Fraud, theft, misappropriation or sabotage of property
- HR-V Misconduct of financial loss or Sexual Harassment

Payment of Statutory Bonus is not mandatory for those who are above eligibility (if paid shall be treated as ex-gratia)

Act is not applicable to:

Life Insurance Corporation, General Insurance Companies, Dock Yards, Red Cross, Chambers of Commerce and Universities & Educational Institutions where there is no PROFIT, Hospitals, Contractors on building operations, RBI, Financial Corporations, NABARD, UTI and IDBI

REUBLISHING

How statutory bonus is calculated? Sample computation

- Bonus is paid for those who worked for 30 days in the previous financial year
- Bonus is calculated for the previous financial year - % of bonus is declared

1. Eligibility for bonus: A monthly salary of Rs.21,000/- or below (Basic+ DA)

2. Basic+DA considered for

Payment of bonus, if eligible Rs.7000/- per month (or)
Minimum Wages, whichever is higher

3. Annual salary for calculation Rs.7000 x 12 = Rs.84,000.00

4. If it is declared at 8.33% Rs.84,000 x 8.33% = Rs.7000.00 (Bonus)

5. If it is declared at 12% Rs.84,000 x 12% = Rs.10080.00 (Bonus)

6. If it is declared at 15% Rs.84,000 x 15% = Rs.12600.00 (Bonus)

7. If it is declared at 20% Rs.84,000 x 20% = Rs.16800.00 (Bonus)

If the Minimum wages is Rs.12,000 then,

Annual salary for calculation is Rs.12000 x 12 = Rs.1,44,000

If it is declared at 8.33% Rs.1,44,000 x 8.33% = Rs.11995 (Bonus)

If it is declared at 10% Rs.1,44,000 x 10% = Rs.14400 (Bonus)

If it is declared at 20% Rs.1,44,000 x 20% = Rs.28800 (Bonus)

If bonus paid as monthly, (Rs.7000 / 12 = Rs.583.00), then at the end of the year, it needs to be reconciled with the bonus declared.

Statutory Bonus for those who get Rs.21,000/month Basic+DA and above - Statutorily it is not payable. If the management pays bonus for them, it is recorded as Ex-gratia. And there is no necessity to show it in the bonus register or return.

BONUS



The World of Domestic Work

HR-V The Labour Legislations in India protect the interest of Domestic Worker's too.

HR-V Domestic Work includes,

- Home Nursing (Skilled manpower)
- Cooking (Semi-Skilled manpower)
- Gardening (Semi-Skilled manpower)
- Cooking and Gardening (Semi-Skilled manpower)
- Washing Clothes (Unskilled manpower)
- Washing Utensils (Unskilled manpower)
- Sweeping and Mopping floor (Unskilled manpower)
- Child-care / Taking children to school and back (Unskilled manpower)
- Aged care / Care of Sick / Care of the differently abled (Unskilled manpower)
- Cooking Assistance (Unskilled manpower)
- Other Miscellaneous Domestic Work (Unskilled manpower)
- Doing one or more unskilled type of work (Unskilled manpower)

HR-V Such persons are eligible for both Basic wages and DA (revised periodically)

HR-V The Respective State Governments notify,

- Hourly
- Daily
- Monthly rates of wages

HR-V And there is another category of Persons Engaged – LIVE-IN workers category

HR-V Remuneration shall be equal amongst Men and Women

HR-V Currently, following States have Minimum Wages notified for Domestic Workers

- Tamilnadu
- Andhra Pradesh
- Kerala
- Karnataka
- Bihar
- Jharkhand
- Odisha, and
- Rajasthan

Do you engage such persons at your home....? JUST COMPLY... Compliance is not only for Organizations.

The World of Domestic Work....contd...

- There are around 50 Lakhs Persons (approximately) engaged in India, to perform such services
- Few Organizations provide manpower for some of these services – Home Nursing, General Housekeeping and Child-care/ Aged care - on contractual basis.
- Earlier only local persons were engaged, but currently the trend is changing to engage Migrant workers in few households.
- They are the most exploited group of workers, though they were protected under State Labour Laws. The reason: there are NO ENFORCEMENT by the authorities.
- Recently, due to Pandemic, most of the workforce were stopped from employment, as the house owners were reluctant to engage outsiders.
- Besides, many were trying to replace dishwashers and cleaner-cum-cloth washers, with electric supplies like dishwashing machine and washing machines, etc., which also created more unemployment.
- Live-in category of worker is required / expected to perform multi-tasks in any household
- Live-in workers are more prone to security and harassment challenges from the employer/house owner and their family members, as such workers need to stay in the workplace
- Discrimination of domestic workers, except Home Nursing, is evident in most of the workplace, as the workers are mostly from the marginalized sections of the society.
- Job Security was in question and there are no paid leaves.
- Except Bonus, which many households extend during festive seasons, other social security benefits are not available to Domestic Workers.
- The silver lining is, few houseowners support the Domestic Worker and their family members, for Education, Marriage and Emergency medical expenses.