Who can join Employee Pension Scheme and who can't

The rules regarding the joining of Employees Pension Scheme (EPS) by an employee was amended by the government via a notification dated August 22, 2014, effective from September 1, 2014. Here is how the latest rules impact you.

An individual who joined the Employees' Provident Fund (EPF) scheme, after September 1, 2014, cannot open an Employees' Pension Scheme (EPS) account if his/her monthly salary exceeds Rs 15,000.

This is because the government amended the rules related to EPF and EPS schemes via a notification dated August 22, 2014 which became effective from September 1, 2014. **In this, there were two changes made to the scheme.**

First, the monthly pay ceiling up to which it was mandatory to join the provident fund (PF) scheme, was hiked to Rs 15,000 per month from Rs 6,500 per month earlier. Second, individuals were disallowed from joining the pension scheme if monthly pay exceeded Rs 15,000 at the time of joining the scheme.

For the purpose of EPS scheme, salary is considered as basic wage plus dearness allowance (DA). So, according to the amended rules, if an individual's basic wage plus DA exceeds Rs 15,000 a month, then he will not be eligible to join the EPS scheme.

How these changes impact your EPF contributions

Puneet Gupta, Director, EY India says, "Prior to the notification dated 22 August 2014, the wage ceiling under EPF Scheme was Rs 6,500 per month (currently Rs 15,000 per month). This meant that if an employee's monthly pay was less than Rs 6,500, then he/she had to mandatorily join the EPF and EPS schemes. However, if an employee's monthly pay exceeded Rs 6,500 (now Rs 15,000) earlier, he/she could optionally join the schemes and open both EPF and EPS account. The notification, effective from September 1, 2014 disallows the EPF scheme member from joining the pension scheme if monthly pay exceeds Rs 15,000 at the time of joining."

As per the current rules of EPF scheme, an employee contributes 12% of his monthly salary to the EPF scheme and an employer matches this contribution. Out of the total 24% contribution (Employee's 12% + Employer's 12%), employee's 12% and employer's 3.67% goes into the EPF account and the balance 8.67% goes into the EPS account. The monthly EPS contribution by the employer is calculated on the employee's actual salary if less than Rs 15,000 and on Rs 15,000 if salary exceeds this limit. Therefore, maximum EPS contribution is Rs 1,250 per month.

"If the individual is not eligible to open an EPS account, then the employer's entire contribution will go to the EPF account. Further, if the employee has an EPS account, then balance employer's contribution over and above the mandatory EPS contribution (Rs 1,250) would go to EPF account," explains Gupta.

However, what happens if the pension scheme account was opened before September 1, 2014? Will the employer continue to contribute even now?

Aarti Raote, Partner, Deloitte India says, "The notification, effective September 1, provides that the pension contributions for new EPF members would apply only for those employees whose pay at the time of joining provident fund is less than Rs 15,000 i.e. for new employees drawing pay in excess of Rs 15,000, the 12% of employer contribution as well as the 12% of employee contribution would accrue in PF account only. However employees who are already members of pension fund prior to September 1, 2014 would continue to contribute to pension funds as before irrespective of their pay levels."

Now, will the EPS account continue if it was opened after September 1, 2014 when the salary was below Rs 15,000 per month, and over time it increased to Rs 15,000 due to job switch or increment?

Raote says, "Based on the notification, effective September 1, the pension contributions for new EPF members would apply only to those whose pay at the time of joining EPF is less than Rs 15,000. Once the employee is a member of pension funds, he will continue to be a member even when the basic salary exceeds Rs 15 000."

Gupta adds, "An EPF member should keep in mind that once both the EPF and EPS accounts are closed and lump-sum withdrawal has been made from both the accounts, then in the future if member joins the scheme again with monthly pay exceeding Rs 15,000, he/she will not be eligible to open EPS account. However, if the EPFO instead of lump-sum withdrawal issues a pension scheme certificate at the time of exit from the scheme, then at the time of re-joining, the member will have to join the EPS scheme again even if the monthly pay exceeds Rs 15,000 at the time of re-joining."

SC strikes down govt notification: How it impacts you

The Supreme Court via a ruling struck down the August 2014 notification issued by the government.

Gupta says, "After the Supreme Court ruling dated 1 March 2019 (which has upheld an earlier Kerala High court ruling dated 12 October 2018) setting aside the notification dated 22 August 2014, the EPFO has not put out any clarification on the enforceability of various amendments including the increase in wage ceiling made in the said notification dated 22 August 2014. Therefore, there is no clarity whether an employer should disallow an individual (joining EPF scheme for first time) from becoming member of EPS if the monthly pay exceeds Rs 15,000."

Raote adds, "Given that the EPFO has not issued any clarification on this post the SC ruling, in practice, the provision of the notification dated 29 August 2014 continue to be operative with respect to the requirement of not contributing to pension where the PF wages exceeds the wage ceiling at the time of initial membership."

(Economic Times)