# AMENDMENTS UNDER LABOUR LAWS 2015 & 2016

### EMPLOYEES' STATE INSURANCE ACT, 1948

- ➤ W.e.f. 1st May, 2015, mandatory to make online payment of the ESI Contributions through SBI Net banking or other 58 notified Banks.
- ➤ W.e.f. 1<sup>st</sup> October, 2015, a single challan is to be generated for all branches. There is no need to prepare Branch-wise Challans. However, this provision has not yet been implemented.
- Addhar card details to be furnished for employees as well as their family members while generating Insurance numbers.
- ➤ Construction site workers shall be covered under ESI Act, 1948 w.e.f. 1<sup>st</sup> August, 2015. However, the extension of ESI coverage has been stayed by various High Courts.

### PAYMENT OF BONUS ACT, 1965

- ➤ Every employee who is drawing a salary or wage upto Rs. 21,000/- per month (earlier Rs. 10,000/- p.m.) and who has worked for minimum period of 30 days in a year is entitled to receive bonus.
- ➤ For the purpose of computation of Bonus under the Act, the wage limit is increased from Rs. 3,500/- to Rs. 7,000/- or the minimum wages applicable to respective schedule industry/employment whichever is more.
- ➤ If an employee is earning salary or wage not exceeding Rs. 7,000/- per month or minimum wage whichever is higher, he is entitled to get bonus on actuals.
- ➤ If an employee is getting a salary of wage exceeding Rs. 7,000/- per month or minimum wage whichever is higher, but not exceeding Rs. 21,000/- per month the Bonus shall be calculated on Rs. 7,000/- per month or the minimum wage applicable to the particular grade/industry/state, whichever is higher.

- Above amendments are applicable from 1st April, 2014 and hence, all Employers to whom the Act is applicable will have to pay difference of Bonus amount for the year 2014-15, if the bonus has been paid @Rs. 3,500/- for the employees below Rs. 10,000/-
- ➤ Bonus for the year 2015-2016 at revised rate is due to be paid on or before 30th November, 2016.
- ➤ In view of the above all eligible employers, Factories/Establishments as the case may be needs to submit Revised Annual Returns in Form D after making payment of difference of Bonus amount for the year 2014-2015.
- ➤ However, the Kerala & Karnataka High Courts have granted stay on the retrospective effect of the Amendment. In the states of Madhya Pradesh & Uttar Pradesh, the Labour Commissioner Office has adopted the same view as that of Kerala & Karnataka High Courts.

### MAHARASHTRA PROFESSION TAX ACT, 1975

- ➤ No Profession Tax till salary of Rs. 7,500/- pm w. e. f. 1st July, 2014.
- ➤ No Profession Tax for female employees for salary upto Rs. 10,000/- per month w. e. f. 1<sup>st</sup> April, 2015.

## MAHARASHTRA CONTRACT LABOUR (REGULATION & ABOLITION) RULES, 1971

### Notification No. CLA-10/2014/C.R. 264/Lab-10(01-Jun-15)

- ➤ Every application made by the Contractor in Form IV shall be accompanied by Form IV-A
- ➤ The Licensing Officer (L.O.) must issue Licence to the Contractor within 7 days from the date of receipt of completed application.
- ➤ If the Licence is not issued within 7 working days by the L.O., it shall be deemed to have been granted & the copy of the receipt of the application with the copy of payment of fees shall be treated as Licence.
- The application process is to be made online through the site <a href="https://www.aaplesarkar.maharashtra.gov.in">www.aaplesarkar.maharashtra.gov.in</a> or <a href="https://www.lms.mahaonline.gov.in">www.lms.mahaonline.gov.in</a>

- ➤ L.O. have been empowered to revoke or suspend or amend the Licence issued under the Act, if he observes a breach of any conditions mentioned in the Licence or in the undertaking given by the Contractor.
- For Maharashtra State, the Security Deposit is revised from Rs.100/- to Rs.500/- per workman.
- ➤ The Registration Fees to be paid by the Principal Employer is increased to Rs.5000/- on flat basis and provision of payment of employment strengthwise registration fees has been deleted.

- ➤ For Contractor also the Licence Fees for renewal of licence is increased to Rs.5000/- per annum on flat basis & earlier provision of payment of employment strength-wise licence fees has been deleted.
- ➤ Every licence granted or renewed shall remain in force till it is not revoked or suspended or amended by the Licence Officer OR the Principal Employer engages or proposes to engage contractor & the contractor pays the annual fees.
  - ❖ If the contract is accorded for a period of 2 years then the licence shall be valid for 2 years as against the present provision of validity of licence till 31st December, provided the Contractor remits Licence Fees for the period of the Contract.
- ➤ The Contractor shall apply to the L.O. for the renewal of Licence in Form VII in triplicate not less than 60 days before the expiry date of the licence.

### MAHARASHTRA SHOPS & ESTABLISHMENTS ACT, 1948

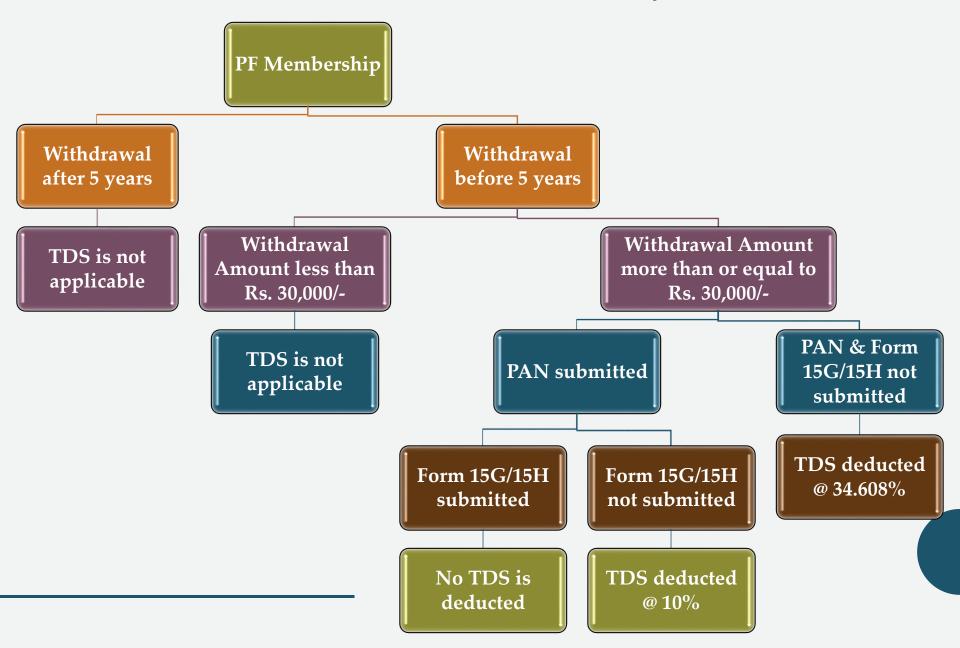
- Application for registration to be made online through the site www.aaplesarkar.maharashtra.gov.in or www.lms.mahaonline.gov.in
- ➤ Decision of issuing the Registration Certificate and Renewal within 7 working days from the date of submission of application.
- ➤ One Shops & Establishments Inspector shall be present in the office at all times during office hours on every office day.
- ➤ After receiving application receipt should be given to the applicant.
- ➤ If there is discrepancy in application such as fees are not paid correctly or if supporting documents not attached, then the application shall be returned to the applicant with appropriate reasoning thereon.
- Employer to provide Indemnity Bond along-with the registration application. The bond states that if the information furnished in the application by the applicant is false then the licence will be cancelled and the appropriate legal action will be taken against the applicant.

- ➤ The certificate is now issued for the period of 1 year from the date of registration, unlike before where the certificate was issued for a calendar year.
- ➤ W.e.f. 8<sup>th</sup> April, 2015, the Govt. of Maharashtra has provided a blanket permission for maintaining computerised records & registers as required under the Maharashtra Shops & Establishments Act, Factories Act & Maharashtra Factories Rules, Minimum Wages Act, Payment of Wages Act, Equal Remuneration Act, Payment of Bonus Act & Maternity Benefit Act as per the formats prescribed.
- The said records have to be provided in hard copies to the regulatory authorities as & when required by them.

## EMPLOYEES' PROVIDENT FUND & MISCELLANEOUS PROVISIONS ACT, 1952

- ➤ PF Administrative charges reduced from 1.10% to 0.85% with minimum admin charge payable Rs. 500/- (Rs. 75 for non-functional establishments) w.e.f 1<sup>st</sup> January, 2015.
- ➤ From July 2015, the periodicity of settlement of PF, Pension and Insurance claims has been reduced from existing 30 days to 20 days.
- ➤ SSA signed with Austria (1st July, 2015) & Canada (1st August, 2015).
- ➤ No need to affix Re. 1/- Revenue Stamp on Advance Stamp Receipt of the PF/Pension Withdrawal Claim Forms w.e.f. 1st September, 2015, if the payments are made through NEFT mode.
- ➤ Provision to fill online nomination forms through the UAN Member Portal w.e.f 5<sup>th</sup> November, 2015
- ➤ W.e.f 1<sup>st</sup> December, 2015, the online registration process for obtaining PF Code has been revised wherein, the Employer himself has to upload digitally signed documents along-with the application on the OLRE Portal.
- ➤ New claim forms viz. Form-31, Form-19 & Form-10C.
- ➤ W.e.f. 1st February, 2016, the 5 days grace period for payment of Contribution has been withdrawn.

### TDS ON EPF BALANCE w.e.f. 1st June, 2015



### PF Withdrawal w.e.f. 10<sup>th</sup> February, 2016

- ➤ 90% withdrawal can be made by the member after attaining the age of 57 years or within one year before his actual retirement or superannuation, whichever is later. (Para 68-NN)
- ➤ On cessation of his employment, after completion of two months waiting period, the member will be able to withdraw his own share of contribution including interest thereon upto the date the payment has been authorised, provided he is not employed in any factory or establishment to which the Act applies for the said period of two months. (Para. 68-NNNN)
- ➤ The two months waiting period is not applicable to female members resigning from the services for the purpose of getting married or on account of pregnancy or child birth. (Para. 68-NNNN)
- ➤ The employer contribution along-with interest can be withdrawn only after completion of 58 years of age.

### PF Withdrawal w.e.f. 10<sup>th</sup> February, 2016

- ➤ U/p 69, the member may fully settle his PF account under 5 circumstances only.
  - On retirement after attaining 58 years,
  - On retirement on account of permanent & total incapacity for work due to bodily or mental infirmity duly certified by the Prescribed Medical Officer.
  - ❖ Migration from India for permanent settlement abroad or for taking employment abroad.
  - Termination in case of mass or individual retrenchment.
  - ❖ Termination in case of Voluntary Retirement Scheme framed with the mutual consent of both Employee & Employer.

### EPF Act & Banks w.e.f. 10th February, 2016

- ➤ Applicability of the EPF & MP Act Under Sec. 1(3)(b), Banks have been notified as a class of establishment. Thus making the EPF & MP Act applicable to all banks employing 20 or more employees.
- ➤ Eligibility Those employees, whether direct or indirect including IW, who are not members of any Contributory Provident Fund or old age pension in accordance with any Scheme or rule as framed by the Central or the State Government or by the respective banks established under the Banking Regulations Act, 1949, are eligible to be covered under the EPF & MP Act.

### **ECR Rejection Process**

Following is the process in case of ECR Rejection where the Challan Payment has been done-

- Employer to create new ECR text file & copy the same on USB/CD.
- Deposit the same to EPFO with concerned EDP/Cash section.
- The Section will then reject the old ECR after due verification & upload the new file on the Portal.
- In case of excess payment, the Cash section will prepare the Challan & deposit the same with SBI. For balance amount EPFO may either refund the amount or allow the Employer to adjust the balance amount against next challan.
- In case of erroneous file upload (wrong PF number, name, etc.), the Section will only upload the new file and replace the old file.

