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Australia – Social Security Agreement with India Comes into Force
by KPMG, Australia (a KPMG International member firm)

The bilateral Social Security Agreement (SSA) between Australia and India is in effect from 1 January 2016.[1] Under this SSA, signed by the two countries in November 2014, double coverage of pension contributions for seconded employees between Australia and India may be preventable.

Australia presently has 30 international social security agreements with other countries, with several more under negotiation. The Australia-India SSA is broadly similar to the SSAs which Australia has signed with other countries. This SSA applies to the Australian superannuation guarantee law requiring employers to make superannuation guarantee contributions for their employees. In relation to Indian law, this agreement applies to the relevant Indian social security and pension laws.[2]

Why This Matters

The execution of the SSA between Australia and India is a welcome step which provides an opportunity for organisations to potentially eliminate duplicative costs as a result of double pension contributions for employees on international assignments who are covered under mandatory pension regimes in both Australia and India. In addition, the execution of the SSA between Australia and India provides social security protection for international assignees, such that they do not lose their social security benefits entitlement in their home country when they go to work in the other country.

Further, the possible exemption of superannuation contributions for an assignee from India to Australia, eliminates the need for departing Australia superannuation payment (DASP) to be claimed when the assignee departs Australia at the end of the assignment. This should simplify the administration of assignments from India to Australia.

Key Benefit under the SSA for International Assignees and Their Employers

Under the SSA, employees seconded by their employers in one country to work in the other country on temporary assignments, but who remain covered by their home country's superannuation/pension legislation, should be exempt from superannuation/pension contribution legislation in the host country. This exemption from superannuation/pension contribution in the host country is available when the employee obtains a Certificate of Coverage (CoC) from the relevant authority in the home country.

KPMG Note

For example, the employer of an Australian employee sent to work in India on a temporary assignment can continue to make superannuation guarantee contributions in Australia and be exempt from making pension contributions in India for this employee. Similarly, the employer of an Indian employee sent to work temporarily in Australia, can continue to make pension contributions in India and there will be no requirement to make superannuation guarantee contributions in Australia on behalf of that employee, provided that a CoC is in place.

KPMG Note (cont'd)

In addition, this exemption under the SSA also applies if the employee is first seconded to a third country and is subsequently seconded to Australia or India. To be clear, the exemption will only apply for the period the assignee is working in Australia or India.

Period of Coverage for a CoC

Under certain conditions, a CoC, generally valid for a period of up to five years, can be obtained by employees on assignment between the two countries. If coverage is required for a period longer than five years, an extension of the CoC can be requested in writing and is subject to the approval of the relevant competent authorities. The written request should include the reasons why the seconded employment will exceed the five-year period.

Other Benefits under the SSA

Totalization of Contribution Periods

The period of service rendered by an employee in both countries will be added together for the purpose of determining his or her eligibility requirements for the relevant pension benefits (e.g., Australian age pension, Indian old-age pension, survivors' pension, and Permanent Total Disability pension), subject to certain conditions.

Export of Benefits

The benefits acquired under the legislation of one country will be exportable to the other country.

KPMG Note – Steps to Consider Regarding Existing Australia-India Assignees and Future Ones

Companies should review their existing assignee population to determine whether they can avoid double pension contributions for their seconded employees between Australia and India by applying for a Certificate of Coverage. Companies should consider existing assignment policies, processes, and immigration obligations when applying for a CoC for those employees currently on assignment. We also recommend companies consider their contractual employment obligations prior to ceasing pension contributions for any existing assignments.

For future secondment arrangements between Australia and India, companies should review their existing assignment policies and processes so that double pension contributions across Australia and India are prevented, where appropriate.

Footnotes:

1 For the "in force" announcement, the text of the agreement (in Hindi and English) and an "Information Sheet," see the Web page of Australia's Department of Social Services at: https://www.dss.gov.au/about-the-department/international .

2 As regards India, the Agreement applies to the Employees' Provident Funds Scheme, 1952; Employees' Pension Scheme, 1995; and Employees' Deposit-Linked Insurance Scheme, 1976.

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See the following recently-published article in *The Expatriate Administrator*, the online "insight & analysis" journal from KPMG's Global Mobility Services practice.

"What's Your Company's Plan When It Comes to Globally Mobile Employees with Equity Awards?"

by Ed Gibbons with KPMG LLP (U.S.) in New York City

This article discusses the burdens on stakeholders to comply with mobility-related tax demands, what the concerns are around withholding and reporting when employees with equity-based compensation cross borders, and how to effectively mitigate risk and foster compliance in multiple jurisdictions.

The information contained in this newsletter was submitted by the KPMG International member firm in Australia.

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