



Tax alert: Rates of damages reduced under the Employees' Provident Funds Act

19 June 2024

The Ministry of Labour and Employment ('MLE') has issued a notification dated 14 June 2024 on the penal damages payable by employers defaulting in the payment of provident fund, pension, and insurance contributions with the objective of rationalising and simplifying the calculation of damages due. This notification has been issued in exercise of the powers conferred to the Central Government under Section 5, 6A and 6C read with subsection (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ('the EPF Act').

In a nutshell



The Ministry of Labour and Employment ('MLE') has rationalised and simplified the damages payable by defaulting employers towards provident fund, pension and Employees' Deposit Linked Insurance contributions.



As per the existing Para 32A, penalty is leviable in a graded manner, ranging from 5% to 25% p.a.



Based on the notification, the rate of damages payable will be uniform @1% per month of default or part thereof irrespective of the duration of default.



The notifications shall come in to force prospectively from the date of its publication in the Official Gazette i.e. 15 June 2024.



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Salient features of the Notification:

- The penal charges in the form of damages were calculated at the below mentioned rates until now as prescribed under the Paragraph 32A(1), Paragraph 5(1) and Paragraph 8A of The Employees' Provident Funds Scheme, 1952, The Employees' Pension Scheme, 1995 and The Employees' Deposit Linked Insurance Scheme, 1976 respectively:

SI No	Period of default	Damages payable (percentage of arrears per annum)
1	Less than 2 months	5%
2	2 months and above but less than 4 months	10%
3	4 months and above but less than 6 months	15%
4	6 month and above	25%

- As per the amendment made by the MLE by way of the notification dated 14 June 2024, the damages for default in the payment of any contributions to the aforementioned schemes or transfer of accumulations as specified under the EPF Act, in the payment of any charges payable under any other provisions of the EPF Act or Schemes, will be recovered at the rate of 1% of the arrears of contribution per month or part thereof across the three schemes as mentioned above.
- With this change, one may note that the defaulting employer will end up paying higher penal damages for the initial period of default up to less than 4 months. Whereas the penal damages will get reduced for the period of default from 4 months or more.
- It may be noted that there has been no change to the limit set for overall quantum of damages payable by the employer. i.e. overall damages payable by the defaulting employer shall not exceed the total amount of arrears
- The amendment as mentioned above will be effective prospectively i.e. from the date of its notification in the Official Gazette i.e. 15 June 2024.

Our comments:

The changes in the damages rates as mentioned above is a welcome move by MLE. This would ensure that employers are subject to damages in line with the period of default. It would also help in rationalising and simplifying the way in which the damages are being computed currently.

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