



No. Pension.I/17(3)19/RRB (e-file: 22941)

Date: 28.02.2022

To,

All Addl. CPFCs, ZO
All RPFC-Is / OICs, RO

Sub: Clarification in the matter of Exclusion of employees of Regional Rural Banks from the purview of EPF & MP Act, 1952

Ref: Head Office Circular No. Pension.I/17(3)19/RRB/ dated 15.02.2021

Madam / Sir,

With reference to above cited subject and reference, it is informed that several communications were received from various offices seeking clarifications on the subject matter. The matter has been examined in Head Office in consultation with Compliance Division, Finance Division and IS Division. After examining the same, clarification on the points related to Pension Division are as follows:

S. No.	Issues	Clarification
1.	The transfer value under Para 39B (b) requires details of pay in respect of all excluded employees. If the last month Pay is simply taken then EPFO may end up paying excess amount under Transfer Value. It is proposed that average Pay Calculated over the entire service of the employee may be taken which would be more realistic & prudent. Even in calculation of Monthly Pension, Average pay for last 60 months is taken	Provisions of EPS – 1995 may be strictly followed.
2.	Some RRB have paid EPS Contribution up to January 2020. The number of full year's contribution period exceeds more than 24 years in respect of several employees who are in service prior to 1996. The multiplying factor for employees having more than 24 years of service is not available in Table E. The same may be provided so that transfer value as prescribed under Para 39B of EPS, 19935 can be correctly arrived at.	If the Cut-off date is 31.03.2018 (as may be communicated by Subject Matter Division), it falls within 24 years as available in Table E. Necessary action may be taken accordingly.
3.	How to deal with Scheme Certificate already issued to the members?	Scheme Certificate shall be surrendered by the members and

		corresponding transfer shall be made as per Table E as per cut off date.
4.	PF and Pension claims of the employees of the RRBs are being settled. Guidance has been sought on whether settlement of such claims should be stopped. Guidance has also been sought for only settlements done under EPS 1995.	It must have been stopped as soon as the issue came to notice.
5.	Employee of the establishment self updating their Date of Exit through employer portal without intervention and submitting their final withdrawal claim form -19,10C/10D without actually resigning and neither the employer nor this office has any mechanism to verify if the member claimants are still on roils of the establishment or not. De noticing this Office has served a letter dated 16-11-2020 to the Establishment to instruct their employers not to submit final withdrawal claim forms till guidelines from the EPFO, HO are received	As per the cut off date, necessary action is to be taken for Date of exit updation by field office / establishment / member. If due to wrong updation, any payment is made, it will be treated as irregular and liable for recovery.

2. It is emphasized that such matters of exclusion from the Act are not new and have come in the past a number of times. Further, whereas this issue was faced by many offices across India, references in this regard have been received from only few offices meaning thereby that they could have been resolved by respective offices without any need of intervention of Head Office. It is, accordingly, advised that any further reference to this Office in this regard may be avoided.

3. Further, it is informed that as per ACC-HQ (Compliance) email dated 30.12.2021 (copy enclosed), to bring clarity in the field office to transfer accumulation in case of exclusion, Finance Division, Head Office may issue comprehensive instructions. Accordingly, any further communication in this regard (if required) may be made with it.

[This issues with the approval of Competent Authority.]

Encl: As above

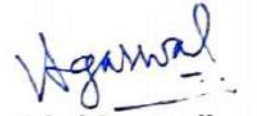
Yours faithfully,

(Vishal Agarwal)

Regional P.F. Commissioner-I (Pension)

Copy to:

1. FA & CAO / Addl. CPFC - HQ (Compliance) for kind information.
2. ACC (Pension) / ACC (IS) for kind information
3. RPFC-I (IS) / RPFC-I (WSU) / RPFC-I (Compliance) for information and necessary action please.



(Vishal Agarwal)
Regional P.F. Commissioner-I (Pension)

Fwd: Instruction from Finance regarding interest on Exclusion/exemption of establishment**From :** Addl. CPFC Pension,EPFO Ministry of Labour <acc.pension@epfindia.gov.in>

Wed, Jan 05, 2022 10:41 AM

Subject : Fwd: Instruction from Finance regarding interest on Exclusion/exemption of establishment**To :** RPFC Pension Head Office <rc.pension@epfindia.gov.in>**Cc :** Vishal Agarwal <vishal.agarwal@epfindia.gov.in>**From:** "Krishan Taneja" <kl.taneja@epfindia.gov.in>**To:** "AnimeshMishra" <animesh.mishra@epfindia.gov.in>, "Addl. CPFC Pension,EPFO Ministry of Labour" <acc.pension@epfindia.gov.in>**Sent:** Tuesday, January 4, 2022 7:12:00 PM**Subject:** Fwd: Instruction from Finance regarding interest on Exclusion/exemption of establishment

वृक्ष बचायें . जब तक अत्यंत आवश्यक न हों, कृपया इस मेल का प्रिंट न लिया जायें.

From: "Jag Mohan" <jagmohan@epfindia.gov.in>**To:** "Hemant Jain" <fa.cao@epfindia.gov.in>, "Krishan Taneja" <kl.taneja@epfindia.gov.in>, "RAJIVBISHT" <acc.fa@epfindia.gov.in>, "PANKAJ RAMAN" <pankaj.raman@epfindia.gov.in>, "RPFC WSU Head Office" <rc.wsu@epfindia.gov.in>, "Md M Meraj Ashraf RPFC II, EPFINDIA" <meraj.ashraf@epfindia.gov.in>, "SHIV KUMAR" <shiv.kumar@epfindia.gov.in>, "NAVENDU RAI" <navendu.raai@epfindia.gov.in>**Sent:** Thursday, December 30, 2021 9:48:30 AM**Subject:** Instruction from Finance regarding interest on Exclusion/exemption of establishment

Sir,

A meeting is held with Legal, Compliance, Pension and Finance divisions officers.

The issue discussed is that when an establishment gets excluded from the EPF act either by virtue of the order of Central Government or the Honorable Supreme Court as has happened in the case of Regional Rural Banks, how the funds of the employee shall be transferred to their account with the new establishment. A similar issue may arise in any other industry.

The legal position in the matter is as follows:

Transfer of account is regulated by section 17 A of the EPF act and para 28 of the scheme. The exclusion is similar to exemption as in both cases the funds are to be transferred from EPF to another Fund. So if there is no specific situation dealt with in the Act or the Scheme the treatment of exclusion and exemption shall be similar.

Section 17A states that that whenever an employee leaves the employment and obtain reemployment in another establishment to which this act does not apply the amount of accumulation to the credit of such employee in the fund or as the case may be in the provident fund of the establishment left by him shall be transferred within such time as may be specified by the central government in this behalf, in the provident fund of the establishment in which he is Re-employed.

Is very clear that whatever stands in his account as accumulation has to be transferred. Recently the question has been set to rest by the Honorable Supreme Court while dismissing EPFO's SLP RPFV Vs. Federal Bank. While dismissing the stated SLP the Honorable Supreme Court has upheld the impugned order of the Kerala High Court which directed us to pay interest at the applicable rate to the Employees of the establishment which went out of the purview of the act. After the Supreme Court judgement in the indicated case the question of law has now attained finality to the fact that at the time of transfer of accumulation in the event of the act ceasing to apply on an establishment, the accumulation liable to be transferred would also include applicable interest at the date on such transfer.

Any internal instruction or provision in the accounting manual to the contrary has no legal standing.

Similarly, in case of pension exempted establishment the past accumulation has to be transferred as provided in para 39 B of the pension scheme. If there is no specific mention about exclusion the same treatment as is to be given to exempted establishments shall be given to excluded establishments.

Accordingly to bring clarity in the field office to transfer accumulation in case of exclusion finance is requested to issue comprehensive instructions to avoid unnecessary complaints, grievances and litigations.

जग मोहन
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