



Monthly Labour Law Update

January¹ 2022



Disclaimer

- This Presentation is meant for informational purpose only and do not purport to be advice or opinion, legal or otherwise, whatsoever.
- This is not intended to advertise services or solicit work through this monthly update.



Let's take a tour

Amendments
& Ordinance

Circulars &
Notifications

Across the
Globe

Knowledge
Corner

Know Your
Codes

Did you Know

Case Law

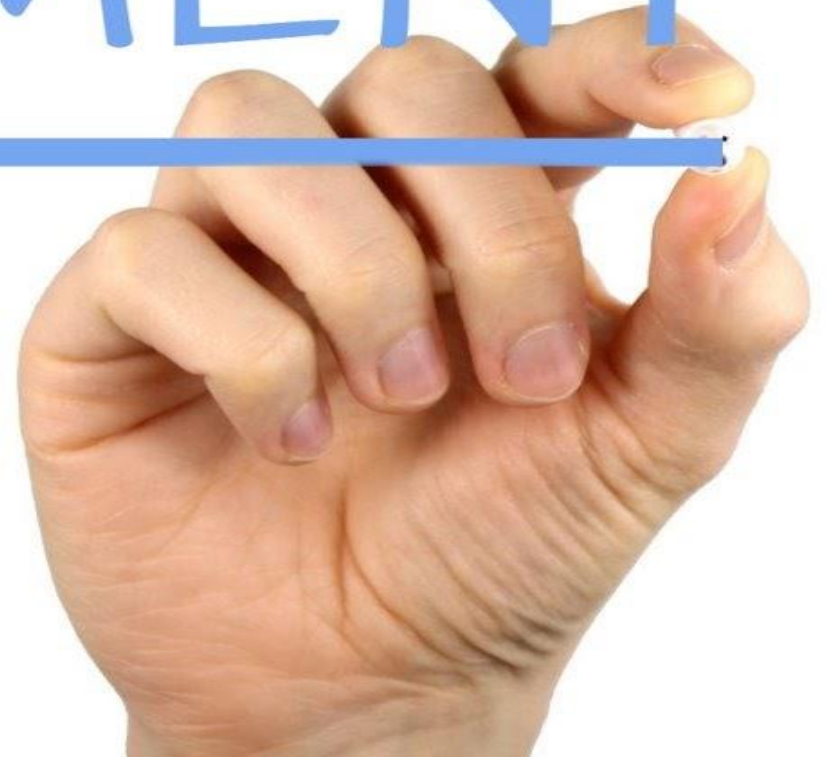
Compliance



AMENDMENT



ORDINANCE





**The Bihar Professional Tax (Amendment Rules),2021
S.O. 68 Dated 13.01.2022**



The Bihar Professional Tax (Amendment Rules),2021

- The Government of Bihar vide Notification No. S.O. 68, has amended provisions towards registration and enrolment under The Bihar Professional Tax Rules, 2011.
- As per the amendment,
 - (1) The employer or assessee shall electronically submit application within a period of fifteen days of any change in the name of employer or deductor or date of liability,
 - (2) The employer shall apply for fresh registration if change pertains to the change in Permanent Account Number, or the name as per such Permanent Account Number, Tax Deduction and Collection Account Number, or the name as per such Tax Deduction and Collection Account Number, jurisdiction of the circle, name and style, Goods and Services Tax Identification Number,
 - (3) The employer or tax assessee through his own login shall also update at the official web-site of the Commercial Taxes Department incase of any change in mobile number, e-mail address, address of the place of the business or name of the firm, nature of profession or trade,
 - (4) The employer or assessee seeking cancellation shall also submit an application electronically within a period of thirty days along with supporting documents at official web-site of the Commercial Taxes Department.



HARYANA STATE EMPLOYMENT OF LOCAL CANDIDATES RULES,2021

NO.LAB/1128- 10.1.2022



HARYANA STATE EMPLOYMENT OF LOCAL CANDIDATES' RULES, 2021

The rules may be called as Haryana State Employment Of Local Candidates Rules, 2021 and the rules propose to implement the following:

- Every employer using its Haryana Memorandum Identification Number shall register all its employees in the form as specified on the designated portal.
- Local candidates who seeks employment shall register on the designated portal.
- Employer shall furnish a quarterly report with respect to Local candidates employed during the previous quarter, by 20th day of the following quarter on the designated portal in FORM III.
- All the records pertaining to employment of local candidates shall be maintained in digital form.



HARYANA STATE EMPLOYMENT OF LOCAL CANDIDATES RULES, 2021

EXEMPTION

- Any employer who seeks exemption from section 4 of the Act shall apply on the designated portal with reasonable grounds for granting such exemption.
- The Designated Officer after verification and enquiry, shall pass an order within a period of 15 days and upload the same on the portal
- If the vacancy remain unfilled beyond the period of validity i.e 1 year, it shall be treated as fresh vacancy subject to providing training.



Circular & Notification





**Extension Of Time Limit To Deposit Labour Welfare Fund
Contribution In Karnataka
Press Note dated 14.01.2022**





Extension Of Time Limit To Deposit Labour Welfare Fund Contribution In Karnataka

The Government of Karnataka through the department notification has extended the last date for payment of contribution to the Labour welfare fund from 15th January 2022 to 31st January 2022 due to technical difficulties in the online portal





EMPLOYEES' STATE INSURANCE CORPORATION
NO. N-12/13/01/2019-P&D
12.01.2022





EMPLOYEES' STATE INSURANCE CORPORATION

- The ESI Corporation had frames a scheme ABVKY. This provided for 90 days pay to the insured.
- The ESIC has not given a communication that to be eligible to this benefit insured person should have been in Insurable Employment for a minimum period of 12 months immediately before his/her unemployment and should have contributed for not less than 78 days in the one completed contribution period in 12 months immediately preceding to unemployment.



THE FACTORIES ACT, 1948 & THE TAMILNADU FACTORIES RULES, 1950

NO.B1/15708/2020

28.01.2022



THE FACTORIES ACT, 1948 & THE TAMILNADU FACTORIES RULES, 1950

- The Government of Tamil Nadu has issued instructions stating that Diesel/ LPG Dispensing pumps will not come under the Factories Act, 1948 as it was already covered under the Legal Metrology Act, 2009.
- Government has now clarified that the definition of "Factory" under Section 2(m)(i) of the Factories Act would include Petrol, Diesel & LPG Dispensing pump / Stations and accordingly instructions have been issued to register them under the Act.



**NOTICE FOR PAYMENT OF LABOUR WELFARE FUND CONTRIBUTION
FOR THE YEAR 2021**

(P.R. NO. 039, DATED 07.01.2022)



NOTICE FOR PAYMENT OF LABOUR WELFARE FUND CONTRIBUTION FOR THE YEAR 2021

The Tamil Nadu Labour Fund Act, 1972 was amended and the contribution rates payable was revised. Though the amendment Act was not notified, there was a confusion as to whether contribution to the fund should be on the amended rates or on the existing rates. The Government of Tamil Nadu has issued a communication which clarifies that it would be on existing rates the contribution to the fund should be paid before 31.01.2022.



QUIZ!



QUIZ!

Definition of "employee" under the Code on wages, 2019 does not include?

- a. Unskilled worker
- b. Clerical worker
- c. Apprentice
- d. Supervisor



ACROSS THE GLOBE



ACROSS THE GLOBE

LAW UPDATES ON INTERNATIONAL EMPLOYMENT-UK

- Government of UK published consultation document for making flexible working arrangements in the light of changes brought by COVID19.
- The Consultation sets out five proposals for reshaping the existing framework:
 - Making the right to request flexible working from “day 1” by removing the 26 weeks qualifying period.
 - Assessing business reasons for refusing a statutory request for flexible working to remain valid.
 - Employers to suggest alternatives if they refuse a flexible working.
 - Assessing the administrative process
 - Considering how the right to request a temporary flexible working arrangement could be utilized.
- It is pertinent to note that the employees will only have a RIGHT TO REQUEST and NOT RIGHT TO DEMAND.
- The said consultations are likely to come into force in mid of 2022.



KNOWLEDGE CORNER



OBLIGATIONS OF AN EMPLOYER

RIGHTS OF PERSON WITH DISABILITIES ACT, 2016



KNOWLEDGE CORNER



SALIENT FEATURES

- The Rights of Persons With Disabilities Act, 1995 was enacted to give an effect to the "Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region.
- The Proclamation was issued in a meeting of the Economic and Social Commission for Asia and the Pacific Region in December 1992 at Beijing, to launch the "Asian and Pacific Decade of Disabled Persons 1993–2002.
- Disability has been defined based on an evolving and dynamic concept. This Act was passed to fulfill India's obligation to UNCRPD.
- The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was replaced by Rights of Persons with Disabilities Act, 2016 (RPWD Act 2016).
- The RPWD Act, 2016 provides that the appropriate Government should ensure that the person with disabilities (PWD) enjoys the right to equality, life with dignity, and respect for his or her own integrity equally with others.
- Speech and Language Disability and Specific Learning Disability have been added for the first time. Acid Attack Victims have been included.



PRIVATE ESTABLISHMENT

- The term “company” is included under the definition of “Private Establishment” provided in Section 2(v) of the Rights of Persons With Disabilities Act,2016.
- Hence, a company under the Companies Act,1956 is covered under the provisions of the Rights of Persons With Disabilities Act,2016.





RESERVATION AND EMPLOYMENT

A private employer is required to :

- Frame an Equal Opportunity Policy.
- Appoint a Liaison Office.
- Identify Posts / Vacancies for Disabled people – Not Mandatory (When a private institute receives funding from Respective Government they need to ensure their 5% of employees are PWD's.
- Prohibit Discrimination.
- Provide Additional benefits / Facilities
- Revamp existing hiring policies
- Confirm with accessibility norms
- Maintenance of Record.





EQUAL OPPORTUNITY POLICY

Every establishment should have an equal opportunity policy and also register a copy of the said policy with the Chief Commissioner or the State Commissioner.





SPECIAL PROVISIONS FOR PERSONS WITH BENCHMARK DISABILITY

- Private employers to ensure that at least five per cent. of their work force is composed of persons with benchmark disability.





VIKASH KUMAR VS UNION PUBLIC SERVICE COMMISSION & ORS

(2021) 5 SCC 370



VIKASH KUMAR VS UNION PUBLIC SERVICE COMMISSION & ORS (2021) 5 SCC 370

FACTS:

- The Appellant suffered from writers cramp and approached the Supreme Court since he was denied a scribe in Civil Service Examination.
- The Appellant declared himself as locomotor disability in the online application form to avail the services of a scribe.
- The application was rejected on the ground that a scribe could be provided only to blind candidates and candidates with locomotor disability or cerebral palsy with an impairment of at least 40%. The appellant did not meet this criterion.



VIKASH KUMAR VS UNION PUBLIC SERVICE COMMISSION & ORS (2021) 5 SCC 370

- The Supreme Court held that section 3 of the RPWD Act, 2016 cast affirmative obligation on the government to ensure that person with disabilities enjoy all rights such as Right to equality, life with dignity and equal respect for their integrity even though Part III of the Constitution does not explicitly include person with disabilities.
- The Supreme Court granted right to avail scribe in Civil Service Examination to the individuals suffering from writers cramp. The bench also said that the government should shed its “fundamental fallacy” that only persons with a specific disability of 40 percent or more should be provided with a scribe while taking examinations such as the Civil Services Examination.



**Deaf Employees Welfare Association v Union of
India**
**(Civil Petition 107 of 2011, decided on December
12, 2013)**

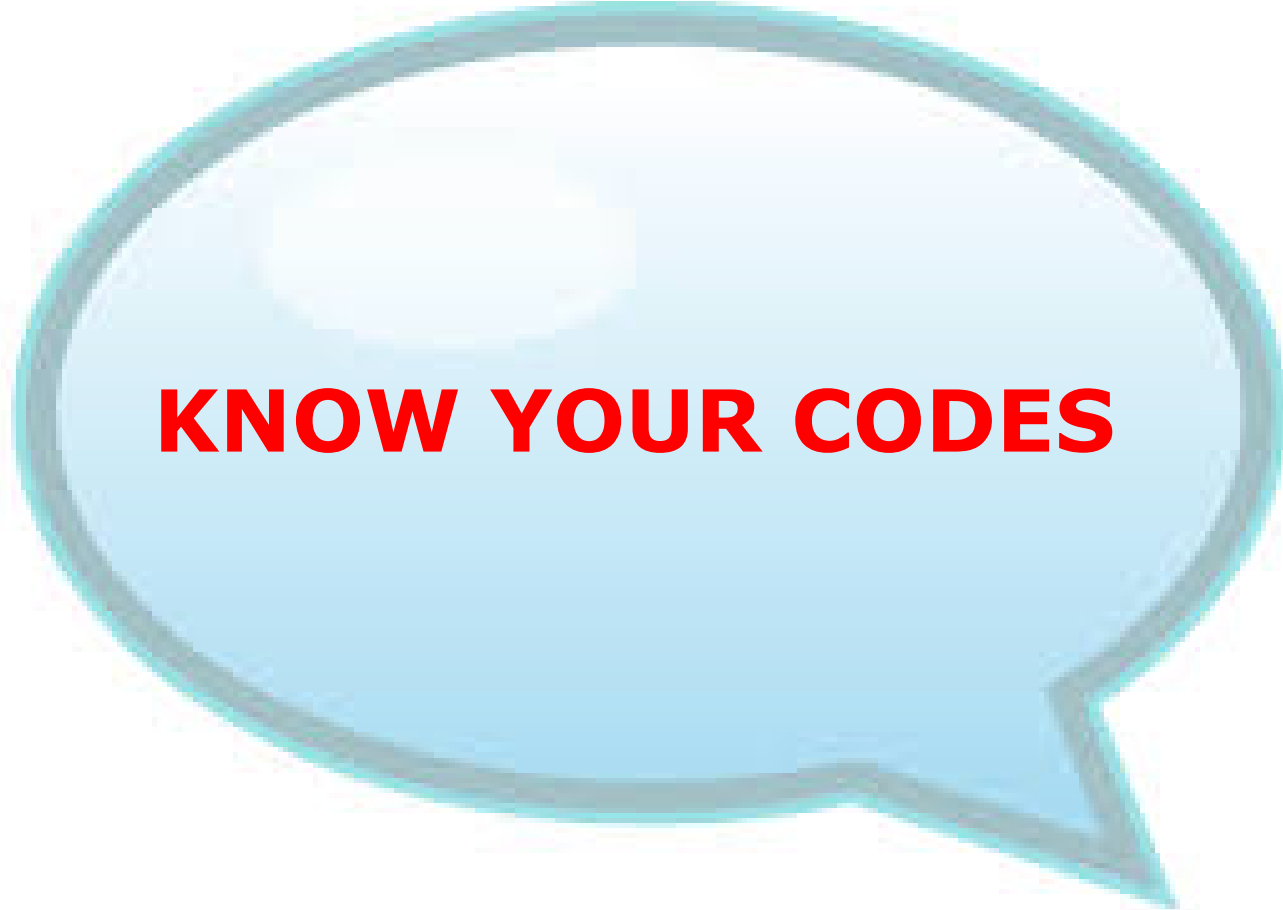




DEAF EMPLOYEES WELFARE ASSOCIATION Vs. UNION OF INDIA

- This Petition was filed seeking a Writ of Mandamus directing the Central and State governments to grant equal transport allowance to its government employees suffering from hearing impairment as what was being given to blind and other disabled government employees.
- The Supreme Court held that “there cannot be further discrimination between a person with disability of ‘blindness’ and a person with disability of ‘hearing impairment’. Such discrimination has not been envisaged under the Disabilities Act.”
- It held that equality of law and equal protection of law afforded to all persons with disabilities while participating in government functions. Any move made by the state to further this objective should be in consonance with the principles enshrined in Articles 14. The Honble Supreme Court held that deaf and mute people should also be given transportation allowances on par with blind and orthopedically handicapped employees of the government.





KNOW YOUR CODES



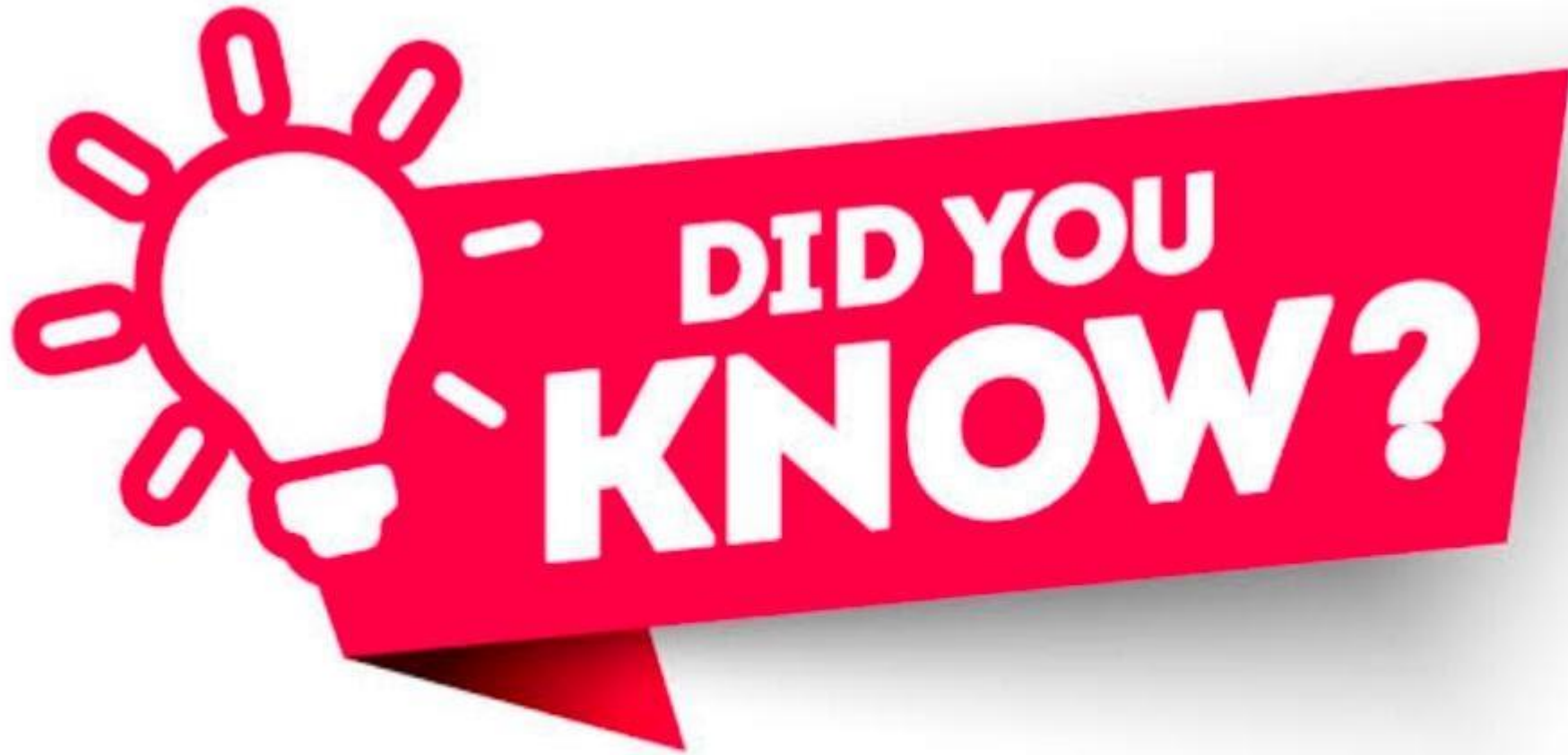
**KNOW YOUR
CODES**

Under the Occupational Safety Health & Working Conditions Code, 2020 in case of closure of establishments, employer has to intimate the authority concerned, about such closure within 30 days of closing of that establishment and must also certify that dues to the workers have been settled –Section 3(5) of the OSH Code, 2020



**KNOW YOUR
CODES**

Any employer who pays to any employee less than the amount due to such employee under the provisions of the Code on Wages, 2019, shall be punishable with the fine upto Rs. 50,000/-





- The Ministry of Labour and Employment launched the e-Shram portal on August 26, 2021 with the apparent objective of developing a national database of unorganized workers. The ministry estimates that there are 38 crore unorganized workers in the country.
- Uttar Pradesh, West Bengal, Bihar, Odisha, Jharkhand are the five states with the highest numbers of registrations recorded.



- The Meghalaya government has extended the upper age limit for those seeking employment, from 27 to 32 years. For those from Scheduled Tribes (ST), the age limit is now 37 years. The decision was taken at the cabinet meeting held on January 19, chaired by Chief Minister Conrad K. Sangma.





**THE CHAIRMAN & MANAGING DIRECTOR OF SPICE JET
LTD. VS. INDIA SPICE JET STAFF & EMPLOYEES
ASSOCIATION**

WRIT PETITION (L) NO.1228 OF 2022





THE CHAIRMAN & MANAGING DIRECTOR OF SPICE JET LTD. VS. INDIA SPICE JET STAFF & EMPLOYEES ASSOCIATION

- Around 400 employees were terminated from services of Spicejet, and it was contended that the workmen was employed on the fixed contract basis and they are not terminated but their term of employment "Expired".
- "Section 2(oo)(bb) of the Industrial Disputes Act, 1947 would be applicable to the case of those workmen who have been working, though on contracts of service, for tenures of 24 months under each contract, for about 8-9 years, Section 2(oo)(bb) would have no application."
- The section affirms that termination of employment on non-renewal of employment agreement upon its expiry shall not be considered as 'retrenchment'.
- The High Court of Bombay in line with the above-mentioned section has granted an interim stay on 19.01.2022. The court further added that no new contractual employees or personnel be deployed by any agency till February 8. Further, SpiceJet has been asked to submit a list of all the employees on February 5 who were so appointed under the fixed-term contract basis for the last 2-10 years so that the work would be provided to them on a seniority basis and, in any case, without employing contract workers in their place.





**North Delhi Municipal Corporation v. Bal Kishan
2021 SCC OnLine Del 5543,
decided on 24-12-2021**





NORTH DELHI MUNICIPAL CORPORATION V. BAL KISHAN

- The workmen had raised an Industrial dispute before the Labour Court seeking reinstatement along with back wages and continuity of service. The Labour court vide its order dated 28.05.2007 has dismissed the claim of the workmen. Aggrieved by the award, the workmen filed a Writ petition and vide order dated 18.02.2020, Learned judge has set aside the award of the labour court and granted regularization along with 390% of back wages and continuity of services.
- The North Delhi Municipal Corporation had challenged the order before the Division Bench. The workmen filed an application under Section 17B seeking payment of full wages last drawn or minimum wages whichever is higher. The contention of the Corporation is that the workmen cannot file an Sec 17B application as the labour court has ordered against the workmen and there is no appeal provided under the Industrial Disputes Act.
- The Division Bench of Delhi High court has held that the Writ filed by the Workmen is itself an continuity of the claim filed by the workmen, hence the order passed in writ petition itself is taken as favouring the workmen. Hence this court has jurisdiction to entertain the Sec 17B Application.
- The court held that the workmen is entitled to last drawn wages/minimum wages whichever is higher w.e.f., 18.02.2020 i.e, the date of order passed in Writ petition till disposal of the appeal as there was no delay in filing the Sec 17B application.





COMPLIANCE





REPORTING PERIOD - JANUARY-2022			
Act	Location/s	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Feb	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Feb	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Feb	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Feb	ESIC Remittance
Payment of Bonus Act	Pan India	01-Feb	Form D
Professional Tax Act	Andhra Pradesh	10-Feb	Professional Tax Remittance cum Return
	Telangana	10-Feb	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Feb	Professional Tax Remittance cum Return
	Gujarat	15-Feb	Professional Tax Remittance (Employer & Employee)
	Karnataka	20-Feb	Professional Tax Remittance cum Return



	West Bengal	21-Feb	Professional Tax Remittance cum Return
	Maharashtra	28-Feb	Professional Tax Remittance cum Return
	Orissa	28-Feb	Professional Tax Remittance cum Return
	Assam	28-Feb	Professional Tax Remittance cum Return
	Nagaland	28-Feb	Professional Tax Remittance
	Meghalaya	28-Feb	Professional Tax Remittance
	Mizoram	28-Feb	Professional Tax Remittance
	Sikkim	28-Feb	Professional Tax Remittance
	Manipur	28-Feb	Professional Tax Remittance
	Tripura	28-Feb	Professional Tax Remittance
	Kerala	28-Feb	Professional Tax Remittance (Employer & Employee)
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	05-Feb	WWF Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-Feb	WWF Return



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- b. Clerical worker
- c. Apprentice**
- d. Supervisor



**Let's Connect again at 4PM
on
26th February, 2022**



*Thank
you*

T.S.GOPALAN & CO

ADVOCATES & NOTARIES

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