Impact Of SSC 2020 On Employee Benefits

Frequently Asked Questions

Disclaimer

The views presented here are based on the information available until *February 20, 2021*. Answers may change as and when further information is made available.

1. When is the SSC 2020 coming into effect?

- The effective date is yet to be notified.

2. What are the major changes in the SSC 2020?

- The major changes arising from SSC 2020 pertain to the revised definition of 'wages' and vesting period for FTEs.

3. Does the new code impact all employee benefits?

- SSC 2020 directly impacts statutory benefits like gratuity and provident fund contributions and could indirectly affect leave valuations or any other non-statutory benefit that is directly linked to the salary of an employee.

SSC 2020 Definition of Wages

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Dearness allowance + Basic pay + Retaining allowance + Any item not excluded + Excess of exclusions over 50% = Wages

Excluded

- (a) Any bonus payable which doesn't form part of the remuneration payable under the terms of employment
- (b) Value of any house-accommodation, supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by any Government order
- (c) Any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon
- (d) Any conveyance allowance or the value of any travelling concession
- (e) Any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment
- (f) House rent allowance
- (g) Remuneration payable under any award or settlement between the parties or order of a court or Tribunal
- (h) Any overtime allowance
- (i) Any commission payable to the employee
- (j) Any gratuity payable on the termination of employment
- (k) Any retrenchment compensation or other retirement benefit payable to the employee or any ex-gratia payment made to him on the termination of employment

Items (a) to (i) in the adjacent 'exclusions' list must not exceed 50% (or the % notified by the Government) of total remuneration.
Any excess over the threshold will be deemed part of wages.

4. What if salary components do not feature in the inclusion or exclusion list?

- The new 'wages' definition is inclusive in nature i.e. any salary head not explicitly excluded, will be considered as an inclusion (i.e. a component of 'wages')

5. Will the total remuneration include variable bonuses?

- Variable bonus – not committed to be periodically paid - which depends on the company/ employee's performance should be excluded from the total remuneration. This is in line with Supreme Court judgement of February 28, 2019 in the case of 'Surya Roshni Ltd. & Others' wherein the bench concluded that any allowance that has been earned with respect to overtime or increased productivity should be excluded from the definition of 'basic wages' as they vary from individual to individual according to their efficiency and diligence.

6. What about components which are tax free for the employee e.g., Meal coupons, LTA.

- It is not clear how such items would be treated under SSC 2020. However, given the inclusive nature of the definition of wages, the monetary values of such items would be included in the calculation of wages.

7. How does this affect the employer?

- Statutory benefits such as gratuity and PF contribution will now be based on this definition of 'wages.'
- Employers are likely to see higher gratuity liabilities and prospective PF contributions if the 'Basic + DA + RA' is lower than total payments under components (a) to (i) in the 'exclusions' list under the definition of 'wages' under section 2(88) of SSC, 2020.

8. Will there be any impact on non-statutory benefits?

- Any benefit linked to the basic or any other component could be affected. A knock-on impact is that the definition of salary for non-statutory benefits such as leave benefits may also need to be revised.
- For the sake of consistency, employers would prefer to defray deferred and non-statutory benefits on the same salary definition to reduce administrative activities.
- To the extent the employer adjusts upward the salary definition of non-statutory benefits, additional costs would be recognised.

9. How should the employer assess its gratuity and PF outgo against the new definition of wages?

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1. Arrive at the total fixed remuneration as total CTC less any variable bonus
2. Check the percentage of "Basic + DA (if any) + RA (if any)" to the fixed remuneration
3. Examine if components (a) to (i) from the 'exclusions' list are below 50% of the fixed remuneration
4. Check for items which are not part of the 'exclusions' list. If there are any (excluding the variable bonus), they would be included in wages.

Example I

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Current salary structure of a company:-

	Amount (Rs)
Basic	100,000
HRA	25,000
Commissions	30,000
Variable bonus	100,000
Total:	**255,000**

Wages under PoGA

- Gratuity calculated on Basic = 100,000

Wages under SSC 2020

- Exclude variable bonus from total remuneration
- HRA and commission are excluded by definition
- HRA + Commission is 35% of total remuneration thus no action needed on salary structure
- ***Gratuity calculated on Basic = 100,000***

Conclusion: **No impact from SSC 2020**

Example II

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Current salary structure of a company:-

	Amount (Rs)
Basic	100,000
HRA	25,000
Special allowance	50,000
Commissions	30,000
Variable bonus	100,000
Total:	**305,000**

Wages under PoGA

- Gratuity calculated on Basic = 100,000

Wages under SSC 2020

- Exclude variable bonus from total remuneration
- HRA, special allowance and commission are excluded by definition
- HRA + Special Allowance + Commission is 51% of total remuneration
- As excluded components are more than 50%, the excess over 50% will be deemed to be wages i.e. 2,500
- ***Gratuity calculated on Basic + Excess of exclusions = 102,500***

Conclusion: **Gratuity payable increased by 2.5% and hence liability will rise by 2.5%**

Example III

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Current salary structure:-

	Amount (Rs)
Basic	100,000
HRA	25,000
Grade allowance	50,000
Commissions	30,000
Variable bonus	100,000
Total:	**305,000**

Wages under PoGA

- Gratuity calculated on Basic = 100,000

Wages under SSC 2020

- Exclude variable bonus from total remuneration
- HRA and commission are excluded by definition
- HRA + Commission is 27% of total remuneration thus no action needed on salary structure
- Grade allowance is not excluded by definition, thus will be deemed as wages.
- ***Gratuity calculated on Basic + Grade Allowance = 150,000***

Conclusion: **Gratuity payable increased by 50% and hence liability will rise by 50%**

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10. How can the company comply with SSC 2020?

- The company can increase the basic pay to meet the threshold required by SSC 2020.
- Alternatively, it could keep the basic pay constant and add some allowances not covered in the 'exclusions' list.
- The tax implications on employees of any changes should be considered.

11. How is the impact of SSC 2020 to be recognised in books of accounts?

- This is a one-time change that will likely, for many companies, increase the salary used to calculate benefits.
- The increase/ (decrease) in liabilities caused by the change in salary definition will be ***recognised immediately*** in the ***P&L*** account under the heading 'Past Service Cost/ (Credit)' [PSC] under ***Ind AS 19 and IAS 19 (revised 2011)***.
- The PSC relating to ***employees who have vested benefits*** will be ***recognised immediately*** in the ***P&L*** account under ***AS 15 (revised 2005)***. For ***employees yet to vest benefits***, the PSC will be ***recognised on a straight-line basis over the remaining vesting period***.
- Under ***US GAAP ASC 715***, the PSC is first recognised in full in the accumulated other comprehensive income. In the future years, the amount to be ***recognised in the net periodic benefit cost/ (income)*** for the year must, ***at a minimum***, be the ***total PSC divided by the expected future service of employees***.

12. Why can't the increase in liability be treated as experience loss i.e., an actuarial loss?

- This is an irreversible, one-time change mandated by regulation which changes the salary definition in order to pay the defined benefit pension e.g., gratuity.

13. Should the impact of SSC 2020 be accounted for in FY 2020-21?

- In case the effective date is notified as April 1, 2021, an argument may be made that this is a qualifying post balance sheet date event that significantly affects the results of FY 2020-21 and hence is an 'adjusting event' under Ind AS 10 or AS 4.
- In case of an 'adjusting event', the impact needs to be recognised in the FY 2020-21 financial statements.

14. What if the current salary structure is such that the excluded components (a) to (i) sum to less than 50% of the total remuneration?

- In such a scenario, there is no need to amend the salary structure to be in compliance with SSC 2020.
- If, however, an employer chooses to increase any of the components from (a) to (i) in the 'exclusions' list to approx. 50% of total remuneration, the gratuity liability would fall.
- The reduction would be recognised as a 'past service credit (i.e., a negative cost)' in the P&L.

15. What other consequences may follow?

- Any increase in defined benefit liabilities are likely to be funded, which will need a cash contribution. For unfunded plans, the benefits on an employee's exit would require higher cash. PF contributions may rise after the rules are notified.

16. What is the new vesting condition for fixed term employees and?

- Gratuity would now be payable to fixed term/ contractual employees on a pro-rata basis based on actual service rendered without any vesting condition.

17. How will this change in vesting condition affect the company's financial statements?

- Companies that did not provide for the fixed term employees' gratuity would now need to maintain a provision with a corresponding P&L charge.

18. What is the new vesting condition for journalists?

- Earlier the payment of gratuity for journalists was defined in Section 5 of The Working Journalists And Other Newspaper Employees (Conditions Of service) And Miscellaneous Provisions Act, 1955. This specified a 3 year vesting condition.
- SSC 2020 has consolidated this section with the other sections of Payment of Gratuity Act and has made no amendments to the vesting condition applicable to journalists.

For further queries

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