Understanding the Key Features of UAE's New Emirati Pension Law

Introduction

The General Pension and Social Security Authority (GPSSA) recently introduced a significant change in the pension landscape through Federal Decree-Law No. 57 of 2023 on Pension and Social Security.

This legal amendment marks the most significant update to pension regulations since the beginning of UAE Federal Law No. 7 of 1999. The new law aims to extend Emiratis' contribution to the public good, increasing the retirement pension value with more working years.

The Scope of the New Pensions Law:

The new pension law applies exclusively to new Emiratis entering the UAE workforce. Emiratis currently or historically employed in the UAE registered with GPSSA for pension purposes, continue to be governed by the 1999 Pensions Law, except in cases expressly modified by the new Pensions provisions.

Under Federal Decree-Law No. 57/2023, the new Pension Law categorizes the term Employer into three distinct classifications:

- Government Sector: Encompassing federal government authorities, public institutions, public companies, banks with federal government shares, and local government authorities within the concerned Emirate's jurisdiction.
- Private Sector: Encompassing any natural or legal person hiring national employees for compensation.
- International Missions: Covering regional and international missions, including foreign political missions operating in the UAE.

According to the new Pensions Law, employers are mandated to make monthly contributions to the GPSSA, considering the employee's total salary, which includes various incentive payments like bonuses or commissions.

This contribution breakdown comprises the employer's share of 15%, the employee's share of 11%, and a government subsidy of 2.5%, specifically for employees earning less than 20,000 dirhams, resulting in a combined total contribution of 28.5%.

The new Pensions Law for the private sector raises the maximum contribution account salary for Emiratis working in the private sector from Dh50,000 to Dh70,000.

Under Federal Law No. 7/1999 Pensions Law, if an individual's earnings exceed AED 50,000, pension contributions will only be calculated based on the AED 50,000 cap, with any additional income beyond this limit not considered for pension contributions.

The Calculation of the Contribution Period under Article 6 considers the time an insured individual spends with an employer, inclusive of service periods, leaves, and secondments. This includes instances like study leaves, sick leaves, and periods without entitlement to full salary.

The individual remains under the new pension Law during leaves or secondments, and the Board establishes specific rules for calculating contributions in such cases.

However, periods of suspension without pay or salary deprivation are excluded from the Contribution Period calculation as outlined in the new pension Law.

Pension Calculation:

The GPSSA determines the pension amount based on various factors.

- The pension is calculated at 2.67% of the pension account salary for each year within the contribution periods.
- Once an individual reaches 30 years of contributions, the rate increases annually by 4% until it reaches a maximum of 100% of the salary.
- An individual becomes entitled to the pension from the day following the termination of employment, extending until their death.
- The GPSSA guarantees a minimum monthly pension of AED 10,000. If the calculated amount falls below AED 10,000, the GPSSA covers the difference.
- If the total subscription period exceeds 35 years, the individual receives an additional benefit at a rate of 3 months for each year beyond the 35 years. This is calculated based on the pension account salary.

Employer Obligations under Federal Decree-Law No. 57/2023:

- Employers must register eligible employees with the GPSSA within one month of their employment start. Within 15 days of an employee's termination, the employer must update the GPSSA.
- Non-compliance results in fines of AED 200 per day, along with a lump sum fine up to AED 50,000 per employee.
- Provide all necessary documentation for accurate contribution calculation within 10 days of initial registration. Delays lead to fines of AED 100 per day. The GPSSA may independently calculate contributions in such cases.
- Monthly contributions are mandatory, deducted directly from the employee's salary. Contributions in the first and last month, even if not worked fully, should not be pro-rated.
- Ensure contributions are paid by the 1st of the following month; late payments beyond the 15th may incur fines of 0.1% of 10% of the due amount per day.
- Employers must calculate contributions accurately based on the actual salary, and Failure to do so may result in an additional 10% of the contribution due.

Beneficiary Entitlements:

The new Pension Law exactly outlines the entitlements of beneficiaries, especially in the unfortunate event of the death of an insured individual or pensioner.

Widows, widowers, children, parents, and other beneficiaries are precisely acknowledged, with specific percentages allocated to each category. The Beneficiary is entitled to receive their share of the Pension from the initial month following the date of death. If there is more than one Beneficiary, the Pension is distributed equally among them.

End-of-Service Gratuity:

As per Article 26, in cases where an individual is not entitled to a pension, the law introduces an end-of-service gratuity system. It involves a progressive calculation: one and a half months' salary per year for the initial 5 years, two months for the next 5 years, and three months for each additional year.

This calculation is based on the pensionable salary of the insured, with a fraction of a month considered a full month in the calculation of the Contribution Period. If the insured passes away before receiving the gratuity, it follows the new pension law's provisions for beneficiaries. In the absence of beneficiaries, the distribution follows the provisions of Islamic Sharia concerning inheritance.

Penalties and Legal Consequences:

Article 33 explains additional penalties, stating that intentionally providing incorrect data or refusing to provide the requested information to the GPSSA may result in fines of up to AED 50,000 per employee.

In more severe instances, authorized representatives of the employer could face imprisonment. Additionally, for intentional data manipulation, the GPSSA has the right to deduct unlawfully distributed amounts from beneficiaries.