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CIRCULAR

TO: ALL CLIENTS / ESTABLISHMENTS

FROM: R.K. BHANDARI & ASSOCIATES, ADVOCATES

DATE: December 19, 2025

SUBJECT: MANDATORY REVISION OF WAGE STRUCTURES UNDER THE CODE ON SOCIAL SECURITY, 2020

Dear Clients,

We wish to draw your urgent attention to the pan-India implementation of the **Code on Social Security, 2020 (CoSS)**, which became effective on **November 21, 2025**. This Code rationalizes 29 existing labor laws and introduces a fundamental shift in how "Wages" are defined for statutory compliance, specifically affecting your ESI contributions and employee coverability.

1. The New Definition of "Wages"

Under Section 2(88) of the CoSS 2020, "Wages" now primarily includes:

- **Basic Pay**
- **Dearness Allowance (DA)**
- **Retaining Allowance** (if any)

2. The "50% Rule" (Critical Compliance Change)

The most significant change is the introduction of a ceiling on exclusions. While items like HRA, conveyance, and overtime are generally excluded from wages, the law now provides a strict limit:

- If the total of all excluded components (allowances) exceeds **50% of the total remuneration**, the amount exceeding this 50% limit **shall be deemed as wages**.
- This deemed amount must be added back to the "Wages" for calculating ESI contributions and determining the coverage threshold.

3. Impact on ESI Compliance

This revised definition impacts the "Coverability" status of your employees. Some employees previously exempt because their "Gross Salary" was above the threshold may now fall under ESI

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coverage if their redefined "Wages" (including the excess allowances) fall within the statutory limit. Conversely, contribution amounts for existing employees may change based on this new calculation.

4. Comparative Scenarios (Illustrative)

Below is an analysis of how compliance changes under the new Code compared to the previous ESI Act:

Case	Basic + DA	Other Allow.	Gross Salary	Previous ESI Status	New CoSS 2020 Status
1	21,500	0	21,500	Not Covered	Not Covered
2	16,000	8,000	24,000	Not Covered	Covered
3	18,000	30,000	48,000	Not Covered	Not Covered
4	15,000	6,000	21,000	Covered	Covered

5. Immediate Action Required

- Audit Payroll Records:** Review your current salary structures to ensure that allowances do not inadvertently trigger higher wage liabilities under the 50% rule.
- SPREE-2025 Scheme:** Please note that the SPREE-2025 scheme, which offers immunity from retrospective liabilities for newly registered employees, ends on **December 31, 2025**. We strongly recommend completing any pending registrations immediately.

Contact Us for Assistance

For detailed guidance on restructuring your payroll or clarifying employee coverability under the new Code, please reach out to our team.

Point of Contact: Available Monday to Saturday | **08:30 AM to 08:00 PM**

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With regards,

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