GUIDELINES FOR THE EFFECTIVE IMPLEMENTATION OF R.A. 7641, THE RETIREMENT PAY LAW

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A

Coverage

Republic Act No. 7641 or the Retirement Pay Law shall apply to all employees in the private sector, regardless of their position, designation or status and irrespective of the method by which their wages are paid. They shall include part-time employees, employees of service and other job contractors and domestic helpers or persons in the Personal service of another.

The law does not cover employees of retail, service and agricultural establishments or operations employing not more than ten (10) employees or workers and employees of the National Government and its political subdivisions, including Government-owned and/or controlled corporations, if they are covered by the Civil Service Law and its regulations.

B

Computation of Retirement Pay

A covered employee who retires pursuant to RA 7641 shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

The law is explicit that "one-half month salary shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days service incentive leaves" unless the parties provide for broader inclusions. Evidently, the law expanded the concept of "one-half month salary" from the usual one-month salary divided by two.

In reckoning the length of service, the period of employment with the same employer before the effectivity date of the law on January 7, 1993 should be included.

C

Substitute Retirement Plan

Qualified workers shall be entitled to the retirement benefit under RA 7641 in the absence of any individual or collective agreement, company policy or practice. In case there is such an agreement, policy or practice providing retirement benefit which is equal or superior to that which is provided in the Act, said agreement, policy or practice will prevail.

As provided in RA 7742, a private employer shall have the option to treat the coverage of the PAG-IBIG Fund as a substitute retirement benefit for the employee concerned within the purview of the Labor Code as amended; provided, such option does not in any way contravene an existing collective bargaining agreement or other

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employment agreement. Thus, the PAG-IBIG Fund can be considered as a substitute retirement plan of the company for its employees provided that such scheme offers benefits which are more than or at least equal to the benefits under RA 7641. If said scheme provides less than what the employee is entitled to under RA 7641, the employer is liable to pay the difference.

If both the employee and the employer contribute to a retirement plan, only the employer's contribution and its increments shall be considered for full or partial compliance with the benefit under RA 7641. On the other hand, where the employee is the lone contributor to the PAG-IBIG Fund, the employer being exempted from its coverage, the employer is under obligation to give his employee retirement benefits under the Act.

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