

Your gratuity is calculated on basic pay, not on allowances



LEGAL VIEW ASHISH MEHTA

Q: If an employee receives a salary solely based on a commission (although his labour contract mentions that he draws an average monthly income as well as commission), how should his gratuity entitlement be calculated?

A: We assume that your query is related to an employment contract from a mainland company in the UAE. An employee is entitled to severance pay (gratuity) if he has completed one or more years of continuous service with his employer. This is in accordance with Article 132 of Federal Law No. 8 of 1980 regulating employment relations in the UAE (the Employment Law), which states: "An employee who has completed a period of one or more years of continuous service shall be entitled to severance pay on the termination of his employment. The days of absence from work without pay shall not be included in calculating the period of service. The severance pay shall be calculated as follows:

1. 21 days' remuneration for each year of the first five years of service.
2. 30 days' remuneration for each additional year of service provided that the aggregate amount of severance pay shall not exceed two years' remuneration."

Gratuity in the UAE is generally calculated based on the basic salary of the employee, and any other allowances are not considered in the final computation. This is in accordance with Article 134 of the Employment Law, which states: "Without prejudice to what is provided for by some laws on the granting of pensions or retirement benefits to employees in some

establishments, severance pay shall be calculated on the basis of the remuneration last due to the employee for those who are paid monthly, weekly or on a daily basis and on the average basis of the daily remunerations referred to in Article 57 of this law for those who are paid at a piece rates basis.

"The remuneration used as a basis for the purpose of calculating severance pay shall not include what is given to the worker in kind, and housing allowance and transport and travelling allowances, overtime pay, representation allowances, cashier's allowances, children education allowances, allowances for recreational and social facilities, and any other allowances or increments."

Based on the aforementioned provisions of law, we assume that the employment contract consists of a nominal basic salary for the employee whose total pay is based on commissions. Therefore, the severance pay (gratuity) shall be calculated based on the nominal basic salary that is mentioned in the agreement.



Know the law

An employee who has completed a period of one or more years of continuous service shall be entitled to severance pay on the termination of his employment. You may sponsor visas of siblings, their kids in special cases

Q: I work in a company in mainland Dubai. I understand that we can sponsor the residence visas of our immediate family members like children and parents. Is there a provision that allows



Know the law

The GDRFA may approve your application if there are compelling reasons that require you to sponsor your siblings in the UAE

us to sponsor visas for my siblings and their children?

A: It should be noted that a spouse, children and parents come under the category of first-degree relationship and, therefore, an individual in the UAE can apply for their residence visa. However, an individual may also sponsor his siblings and their children, citing it as a special case at the General Directorate of Residency and Foreigners Affairs (GDRFA).

The GDRFA may approve your application if there are compelling reasons that require you to sponsor your siblings in the UAE. Such reasons may include: no one else can look after your minor siblings in your home country or that any of them is a person of determination who requires special attention.

You may approach the GDRFA for further advice on this matter.

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