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CIRCULAR



NO: 02/2015

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TO ALL PARTICIPANTS IN THE MOTOR INDUSTRY

MIBCO is governed, in terms of its role and functions, by collective agreements which are negotiated between employee and employer parties within the Motor Industry. One such collective agreement is the Administrative Agreement which is of limited duration, covers amongst other things, the following:

1. The funding of MIBCO through a levy system by means of returns which is processed on a monthly basis;
2. The deduction and remittance by employers of retirement fund contributions by means of the returns process;
3. The payment of benefit fund contributions by employers by means of the returns process;
4. The deduction and remittance of trade union subscription fees by employers by means of the return process; and
5. The enforcement of collective agreements and disputes through the Dispute Resolution Centre (DRC).

Please be advised of the following two important notices:

1. EXPIRY OF THE ADMINISTRATIVE COLLECTIVE AGREEMENT

The expiry of the Administrative Collective Agreement, with effect from 31st January 2015, refers.

The Minister of Labour is in the process of giving consideration to the extension of the Administrative Agreement however same has not been in place since 31 January 2015. Employers are therefore encouraged to continue with the payment of Council Levies and Union Subscriptions via the monthly returns system as the lapse in the Administrative Agreement is viewed as temporary.

To accommodate the ongoing submission of monthly returns, MIBCO presents the following recommendations regarding how the Council Levies and Union Subscription processes should be managed in the interim.

A. Where employers elect to exercise the option not to pay Council Levies and / or Union Subscriptions via MIBCO, the following should be observed:

I. Non-payment of the Council levies to MIBCO

- MIBCO has enhanced the monthly return system to allow for the ***breakout*** of the Council Levies.

II. Non-payment of the Union contributions through the MIBCO returns system

- MIBCO has also enhanced the monthly return system to allow for the ***breakout*** of the Union (NUMSA and MISA) contribution.

B. Employers electing to continue paying the Council levies and the Union contributions should continue to do so via the monthly returns system as per the standard processes.

In the event this option is selected, MIBCO will accept that the payments made have been done so with the consent of both the Employer and Employees, and will utilize the monies received for the day to day running of the Council in the provision of services to the Industry.

2. EXPIRY OF THE PROVIDENT FUND AGREEMENTS

Please be advised that the Provident Fund Agreements, for both the Auto Workers Provident Fund and Motor Industry Provident Fund, will expire (have expired) on 31 March 2015.

Contributions to the two retirement funds are currently regulated by the provisions of the rules of the funds, the two Bargaining Council collective agreements relating to the funds and the Pension Funds Act.

Employers are required, in terms of these provisions, to deduct the fund contributions and make payment to MIBCO for remittance to the funds.

The respective Bargaining Council agreements regulating the method of collecting contributions for the Provident Funds and payment thereof to MIBCO on behalf of the funds will expire (have expired) on 31 March 2015.

The Minister of Labour is in the process of giving consideration to the extension of the respective agreements however such extension will not be in place on 31 March 2015 when the current agreements expire.

Please note that the expiry of the Provident Fund Agreements does not release employers from complying with the legal obligations imposed by the Pension Funds Act and the rules of the two funds, which remain in force.

The funds are registered in terms of the Pension Funds Act and the rules and the employers must comply with the provisions thereof.

Section 13A requires that employers shall deduct contributions, as determined in the Rules and with their own contributions pay those contributions to the funds within seven days of the end of the month for which the deductions have been made.

The director, member of a closed corporation or other person responsible to administer the contributions is personally liable if the payments are not made. Any person who is in breach of Section 13A is liable to a fine of not exceeding R10m or imprisonment not exceeding 10 years or both.

The Rules determine the contributions. Employers with employees who are members of the funds are advised, in terms of the rules of the funds and the provisions of the Pension Funds Act, and in their own interests and those of the members of the funds, to comply with their legal obligation to continue making the deductions and remit such contributions via MIBCO, through the standard return processes, in the usual way. MIBCO will, as usual, account to the respective funds.

We trust this clarifies the matter.

The General Secretary

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