

MANDATORY PROVIDENT FUND SCHEMES AUTHORITY

IV.18 Guidelines on Contribution Arrangement for a Self-employed Person Who Sustains a Loss

INTRODUCTION

Section 130 of the Mandatory Provident Fund Schemes (General) Regulation (the Regulation) provides that if the business or businesses carried on by a self-employed person (SEP) have sustained a net loss in relation to a financial period of the registered scheme concerned, the SEP may discontinue payment of mandatory contributions until the relevant income of the SEP's business or businesses exceeds the minimum level of relevant income as specified in Schedule 2 to the Mandatory Provident Fund Schemes Ordinance (the Ordinance).

2. Section 6H of the Ordinance provides that the Mandatory Provident Fund Schemes Authority (the Authority) may issue guidelines for the guidance of approved trustees, service providers, participating employers and their employees, self-employed persons, regulated persons and other persons concerned with the Ordinance.

3. The Authority hereby issues these guidelines on the contribution arrangement for an SEP who has sustained a net loss in relation to a financial period of the scheme concerned.

EFFECTIVE DATE

4. These revised Guidelines (Version 6 – December 2022) shall become effective on 23 December 2022. The previous version of these Guidelines (Version 5 – October 2013) shall be superseded on that day.

CONTRIBUTION ARRANGEMENT FOR AN SEP WHO HAS SUSTAINED A NET LOSS

SEP to Make a Written Statement to the Approved Trustee on the Loss

5. In order for an SEP who is a member of a registered scheme to apply for suspension of payment of mandatory contributions, the SEP should make a written statement to the approved trustee of the scheme declaring that his/her business has sustained a net loss. The net loss should cover the latest complete financial period of the self-employed business (which will be used to determine the relevant income of the SEP for the next financial period of the scheme). The loss should be calculated based on the results of the financial period concerned only and no loss can be brought or carried forward to offset any profits in relation to other financial periods of the business. The submission to the approved trustee may be made through different channels, including a system operator of an electronic MPF system¹.

6. Section 130(2) of the Regulation also provides that the net loss of the self-employed business must be calculated in accordance with Part 4 of the Inland Revenue Ordinance (Cap 112).

Suspension of Payment of Mandatory Contributions

7. After an SEP has made a written statement to the approved trustee declaring that his/her business has sustained a net loss, the SEP can discontinue the payment of mandatory contributions from the current contribution period (and any forthcoming contribution periods for an SEP who contributes on a monthly basis) within the current financial period of the scheme. The SEP is still required to report to the approved trustee at least 30 days before the end of each

¹ Electronic MPF system means an electronic system designated under section 19I(1) of the Ordinance.

financial period of the scheme the relevant income for mandatory contribution purposes for the next financial period of the scheme.

Resumption of Mandatory Contributions

8. Mandatory contributions should be resumed when the assessable profits for any subsequent financial period of the self-employed business are ascertained and the amount of profits is not less than the minimum level of relevant income as set out in Schedule 2 to the Ordinance. If mandatory contributions are resumed in a contribution period where no mandatory contribution is payable, the SEP should make deferred mandatory contributions in the same manner as if there had been no suspension of contributions until all deferred contributions are made or the contribution period for which no mandatory contribution is payable is over. Contributions should be made in accordance with normal arrangements thereafter. An illustrative example is set out in the Annex for reference.

SEP having More Than One Business

9. In case an SEP has more than one self-employed business, the SEP can only claim for suspension of payment of mandatory contributions if a net loss is resulted from all his/her businesses, including his/her share of the results of all his/her partnership businesses, if any.

DEFINITION OF TERMS

10. Where a term used in the Guidelines is defined in the Ordinance or the subsidiary legislation then, except where specified in the Guidelines, that term carries the meaning as defined in the Ordinance or the subsidiary legislation.

WARNING

11. It is an offence under section 43E of the Ordinance if a person, in any

document given to a prescribed person² in connection with the Ordinance, makes a statement that the person knows to be false or misleading in a material respect, or recklessly makes a statement which is false or misleading in a material respect.

² Prescribed person means (a) the Authority; (b) a system operator of an electronic MPF system; (c) an approved trustee; (d) a trustee of a relevant scheme; or (e) an auditor of an approved trustee or of a registered scheme.

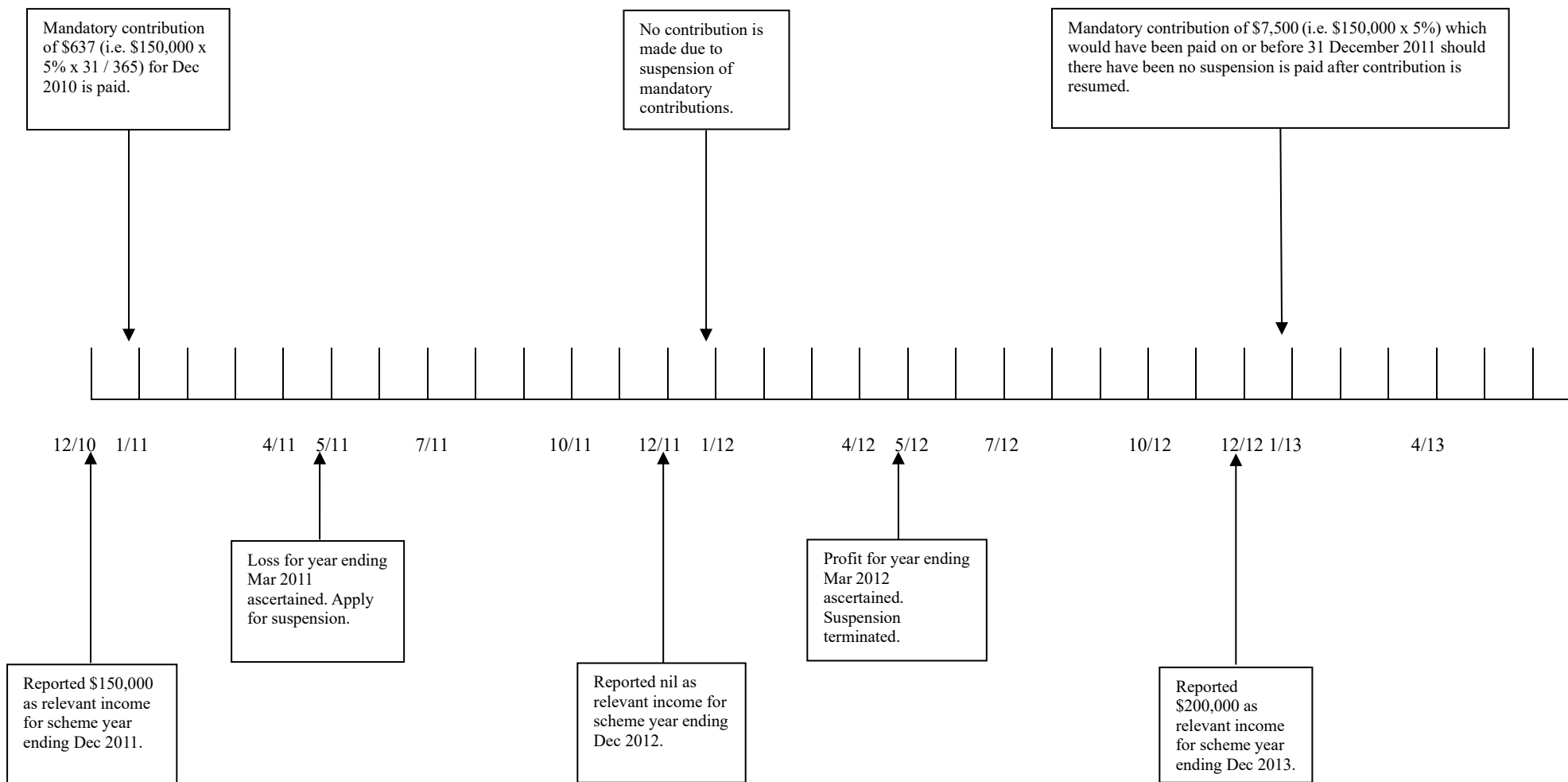
Illustrative Examples on the Suspension of Mandatory Contributions for a Self-employed Person (SEP)

Basic assumptions:

1. The financial period of the registered scheme ends on 31 December of each year.
2. The financial period of the self-employed business ends on 31 March of each year.
3. The SEP enrolls in a scheme on 1 December 2010.
4. The self-employed business takes 1 month after the financial year-end to calculate its assessable profits for a financial year, i.e. the assessable profits for the year ended 31 March will be known by 30 April.
5. Tax assessable profits / loss of the self-employed business for the financial year ended:

31 March 2010	-	Profit of \$150,000
31 March 2011	-	Loss of \$10,000
31 March 2012	-	Profit of \$200,000

For an SEP who elects to contribute annually



For an SEP who elects to contribute on a calendar month basis

