

Changes brought about by Chinese new social security law

Description

The new Law of the People's Republic of China on Social Security (hereinafter, the "New Law") has taken effect as from July 1st, 2011, revamping the old social security/insurance systems. Apparently, this New Law will bring about a few changes to people that are worthy of note.

1. Non-local people will be covered by social insurances

Previously, not all people working in Shanghai are eligible for entitlement to the all standard social insurances (pension, medical, work injury, unemployment and maternity). People, generally migrant workers from countryside, who do not hold Shanghai hukou (household registration certificate) or Shanghai green card (the kind of long-term residence permit) can only have the so-called "comprehensive insurance package" under which an employer will pay a social insurance premium equal to 12.5% multiplied by the average wages of all Shanghai workers in the previous year and then by 60%, an amount of not more than RMB 300.

Under the New Law, however those people are going to be treated as local Shanghainese, eligible to receive all social insurances pursuant to the same rules.

2. Foreign expats may be covered

Another highlight is that the New Law seems to cover expat workers in China also. Article 97 provides that foreigners working within China territory participate in social insurances BY REFERENCE TO the law (In Chinese context, "by reference to" is not equal to "in accordance with", which often means not compulsory).

It will be reasonable to expect that expats workers in first-tiered cities will be able to participate in local social insurance, but those working in other parts of China may have to wait for some time.

Shanghai has already extended social security coverage to expat workers in 2009, availing expats of three insurances: pension, medical insurance and work injury insurance, not including unemployment insurance and maternity insurance. It is not clear whether Shanghai will not make all those five insurances available to expats employees.

It is advisable that foreign expats insist that a clear clause regarding social insurances be inserted into their employment contracts, ensuring their right to social security in China.

Under Shanghai local rules, expat employees may draw out the money sitting in their pension accounts upon leaving China. Further, pursuant to the New Law, fund in personal pension accounts may be inherited by heirs

3. Social security cost increases substantially on part of employers

Due to the expansion of coverage of social security, employers in China are now facing a substantial

increase in social security cost. In particular, manufacturing factories that heavily employ migrant workers should have already felt the painful sting, which may add salt to injury as those factories have already been struggling against high-inflation and strained financing.

It remains to be seen how this new law will impact the country in whole, for better or for worse.

Date Created

November 2011

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