

The Law on Foreigners' Participation in Social Insurance in China Will Become Effective on Oct. 15, 2011

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The *Interim Measures for the Participation in Social Insurance of Expatriates Employed in China* ("Interim Measures") was released by the Ministry of Human Resources and Social Security on Sept. 6, 2011. The Interim Measures will become effective on Oct. 15, 2011.

According to the Interim Measures, foreigners who are employed by any entity in China are required to participate in basic pension insurance, basic medical insurance, work-related injury insurance, unemployment insurance, and maternity insurance. Employers and foreign employees must pay social insurance contributions in accordance with relevant regulations.

For foreign employees who enter into employment contracts with employers outside of China and are then dispatched to work in branch offices, representative offices or other entities registered or recorded in China, both the foreign employees and the branch offices' representative offices or other entities in China are required to pay the social insurance contributions in accordance with relevant regulations.

For foreign employees who are nationals of countries that have entered into bilateral or multilateral treaties relating to social insurance with China, participation will be handled in accordance with such treaties. Currently only South Korea and Germany have such treaties with China. It is also unclear whether employees from Hong Kong, Macau, and Taiwan, which China considers part of its territory, need to comply with the Interim Measures.

Employers (including branches or representative offices) should complete the social insurance registration for foreign employees within 30 days of the issuance of Alien Employment Permits to foreign employees. Social security authorities are authorized to supervise the payments of social security contributions. If employers (including the branches or representative offices) fail to pay social security contributions for foreign employees, they will face administrative penalties.

The implementation of the Interim Measures will significantly increase the tax burdens of foreign employees and their China employers. The additional tax burden can reach about US\$10,000 per year for each foreign employee and his/her employer.

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