Armstrong Teasdale

Client Alert

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New Law Boosts U.S. Employers' Costs for Deploying Workers to China

Foreign expatriates working in China are now required to participate in, and contribute to, China's Social Security System under the recently passed "Interim Measures for Social Insurance Coverage of Foreigners Working within the Territory of China" ("Interim Measures"). Generally, the new law, which went into effect on October 15, 2011, forces expatriates working in China to contribute to the social security systems of both China and their home country and substantially increases the costs to employers for deploying workers to China.

Important facts to keep in mind in regards to the Interim Measures include:

- Both expatriates hired by local Chinese businesses (i.e. local hires) and expatriates hired in their home countries and dispatched to work in a Chinese branch or representative office of their employer (i.e. secondees) must contribute to China's Social Security System.
- Both the employee *and* employer must make social security contributions. Contribution rates and the maximum amount of earned income the social security tax applies to are *determined locally* and thus *vary* depending upon the city in which an expatriate works. For example, an expatriate working in Shanghai must make an 11 percent social security contribution on the first RMB 11,688 (USD 1,843) of his or her monthly salary. The expatriate's employer must make a 37 percent contribution on the first RMB 11,688 (USD 1,843) of that salary. These figures are different for other cities including Beijing.
- Expatriates may start withdrawing payments from their social security contributions once they reach the statutory retirement age in China. If the expatriate leaves China before reaching the statutory retirement age, he or she may close their social security account and receive a lump-sum payment from their contributions.
- Failure to comply with the Interim Measures will result in stiff penalties. These range from 100 to 300 percent of contributions due, in addition to a daily late payment interest surcharge of 0.05 percent of the unpaid or underpaid contribution amount.

To illustrate the implementation of the Interim Measures, Company A, a U.S. corporation headquartered in St. Louis, hires Expatriate X, an American citizen. Expatriate X starts working in Shanghai on January 1, 2012. The worker's monthly salary is RMB 20,000 (USD 3,154). Expatriate X must make an 11 percent contribution to China's Social Security System on the first RMB 11,688 (USD 1,843) of his or her monthly salary. Company A must make a 37 percent contribution on the first RMB 11,688 (USD 1,843) of Expatriate A's monthly salary on Expatriate A's behalf. Therefore, during each month of 2012, Expatriate X must make a RMB 1,286 (USD 203) social security contribution. Company A must make a RMB 4,325 (USD 682) contribution. All things being equal, the new law increases the cost of deploying Expatriate A in Shanghai by approximately RMB 67,332 (USD 10,617) annually.

If you need assistance in developing policies or complying with the new social security laws in China, or have any other related questions, Armstrong Teasdale's International Group invites you to contact:

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