

## China's New Social Insurance Law – and its impact on foreign employees

The new Social Insurance Law (SIL) in China is set to bring about new and improved social welfare standards for the country's increasingly mobile workforce. Although it has been the center for debate for more than a decade it was finally adopted by the government in late 2010, breaking the usual legislative practice of not debating an issue more than three times before the adoption of a law. In this month's issue of the NCO Newsletter we will look into how this new law will impact foreign enterprises and employees in China.

### **Comprehensive and inclusive**

The new SIL will become the most comprehensive law in China's social welfare system applying to state-owned enterprises, foreign invested enterprises, joint ventures, privately-owned enterprises as well as their local and foreign employees in all of China, thus covering both rural and urban areas. It has long been debated whether participation for foreign enterprises and foreign employees should be mandatory or voluntary, however,



### **Swedish Chamber Event**

#### **Seminar on the new Social Insurance Law**

The Swedish chamber of commerce in Beijing, will, together with the Danish and the Israeli chambers of commerce, host a seminar on 'New Regulations of Social Insurance for Expatriate Employees in China'.

Date: September 6, 2011.

Time: 8 – 10am.

Place: Radisson BLU Hotel, Beijing.

Ms Luka Lu will give a

an influx of foreigners working and living in China during the past decade has created a demand for social insurance and provided reason to include these in the SIL. A 2010 census suggests that approximately 600.000 foreign nationals currently resides in China making up a diverse group of employees at many different levels in various industries, including some labor intensive. There has especially been a rise in the number of workers originating from Southeast Asian countries such as Vietnam, Myanmar, Laos and Bangladesh in recent years.

By including foreign employees, the new SIL aims to create an equal, portable and unified social insurance system for both Chinese and foreign nationals working in China, as individuals will be able to transfer their pension, basic medical and unemployment insurance relationships with them should they find employment in a different city or province. Prior to the new SIL foreign workers in China's larger cities were limited to only having work injury insurance and basic medical insurance. However, the SIL has clarified that the following five types of insurances will be mandatory for all employees: pension, basic medical insurance, unemployment insurance, work-related injury insurance and maternity insurance.



presentation of the new law and the details most relevant for foreign employees.

Luka Lu has obtained her law degree from Peking University and she helped foreign chambers and companies in having dialogues with the legislators in NPC when the draft labor contract came out which resulted in significant changes in the draft. Luka has also been included in the 2002 edition of Asia Law Leading Lawyers as well as appearing several times in discussions regarding law topics on CCTV 9.

Click [here](#) for more details and sign-up.

Two draft measurements were released for public solicitation from June 10 to June 17, 2011. The draft Interim Measures for the Participation in Social Insurance of Foreigners Employed in China (interim measures) consist of only 12 articles stipulating that foreigners who are legally employed by or dispatched to enterprises, public institutions, social groups, privately-owned non-enterprise units, foundations, law firms and accounting firms, which have been registered in line with the laws in China are required to participate in the above mentioned insurances. The interim measures also provide that a foreigner who leaves China before retirement can, upon written application to the social insurance agency, ask to have the insurance relationship terminated and retain the amount accumulated in their basic pension account in one lump sum (i.e., exclusive of employers contribution).

While the rate of contribution has not been determined on a nationwide basis, leaving it up to local governments to formulate their own policies according to their needs, it has been made clear that employees shall contribute to the first three insurances mentioned and that employers shall contribute to all five items. It is assumed that foreigners will have to make contributions at the same rate as Chinese nationals leaving the maximum annual employer contribution amount per employee at 51.900RMB and 49.150RMB for Shanghai and Beijing



## ChinaBiz Blog

### Tax Incentives in China's

### Green Energy Sector

With the [12 Five Year Plan](#), declared the greenest ever, approved earlier this year and the new [guidance catalogue for foreign investments](#) placing several 'green' industries into the encouraged category, the talk about government policies supporting these industries has been immense in past months. Many of these policies can be categorized as corporate income tax incentives, incentives targeted at high and new tech companies or VAT and business tax incentives for energy-saving service

respectively, while the maximum employee contribution would amount to 15.430RMB and 15.915RMB respectively.

### **Legal compliance**

The draft Measures on the Administration of Social Insurance Records of Individuals' Rights and Interests (administration measures) sets out the methods by which social insurance agencies are to collect information relevant to individuals' social insurance rights and interests from employers, designated hospitals and pharmaceutical retail shops etc. Further authority has also been transferred to the social insurance collection body in order to exercise better enforcement of the SIL, especially if an employer should fail to conduct proper social security registration or make a complete payment on time. In case of the former, the directly responsible person(s) will receive a standard penalty ranging from 500 to 3.000RMB. In case of the latter, an employer shall pay 110 percent of the previous month's contributions. It should be noted that other penalties might apply according to the specific case for non-compliance.

Currently, Germany and South Korea have signed bilateral agreements for social insurance exemption with China. Workers from Germany are therefore exempt from pension insurance and unemployment insurance, while workers from South Korea are exempt from pension

companies.

[Read more...](#)

### **Six Consumer Trends in China**

The American Chamber of Commerce in Shanghai released a report earlier this week revealing six major trends among Chinese consumers. The report surveyed 135 domestic as well as foreign owned companies doing business in China and listed six key trends which will impact the Chinese consumer market in the coming years.

[Read more...](#)

### **Geothermal Energy in China**

China's geothermal energy market is set to experience heavy growth during the 12<sup>th</sup> Five Year Energy plan period, 2011 – 2015, as it will be listed

insurance. However, the Chinese government is currently working on signing new bilateral insurance agreements with more countries.

### **Comments on the SIL**

European companies have expressed concern about the lack of clarification and the expenses brought upon them with the implementation of the SIL. It is argued that a one size fits all policy is not necessarily fair or efficient when implementing the law and that participation should be considered a right instead of an obligation due to several reasons. Some foreigners are fully covered by private or commercial insurance as part of their contract, it is unclear how the benefits of the SIL can be accessed and the Chinese social security system level is very low compared to developed countries.

The Ministry of Human Resources and Social Security has responded to these comments that China is following international best practice and that participation on a voluntary basis is not likely to be made possible, however, they would consider providing some form of grace period for implementation and that foreigners might not need to contribute to certain insurance schemes.

### **Recommendations**

The SIL will come into effect on July 1<sup>st</sup> and, according to the draft interim measures, participation will be mandatory

as a renewable clean energy source and receive further attention as China seeks to optimize its energy mix in the future. Power generated from geothermal energy is set to make up 1.7 percent of China's total energy mix by 2015, 10 times the current amount.

[Read more...](#)



## **Contact NCO**

### **Enquiries**

If you have questions or would like a meeting regarding corporate structure, accounting standards, internal controls or tax reporting systems etc. please feel free

for foreign employees throughout China. It is recommended that foreign employers and employees in China follow the development of the SIL once the State Council has reviewed and approved the above measures and provided further details on participation in the social insurance system.

For advice on social insurance and other HR-issues in China, please contact NCO at:

Stella Qiu – Shanghai office: [stellaqiu@ncochina.com](mailto:stellaqiu@ncochina.com)

Amy Zhou – Beijing office: [amyzhou@ncochina.com](mailto:amyzhou@ncochina.com)

to contact us

at [enquiry@ncochina.com](mailto:enquiry@ncochina.com)

#### **Unsubscribe**

You may unsubscribe from our newsletters by sending an email

to: [marketing@ncochina.com](mailto:marketing@ncochina.com)

with the subject "unsubscribe".

#### **Website**

[www.ncochina.com](http://www.ncochina.com)

---

## **Q&A – Employment in China**

**Q:** What are the costs incurred by FIEs when hiring local employees?

**A:** Besides the basic wage, which shall not be lower than the local minimum standard wage, a FIE is required to make contributions to various social and welfare schemes. The contributions combined may amount to 40% on top of the basic wage. The social and welfare insurances provide coverage to employees in case of old-age, unemployment, illness, pregnancy and other events. Individual housing funds are also a part of social and welfare contributions. It should be noticed that

regulations are issued by local governments and will therefore vary accordingly.

Information in this newsletter is meant as general guidance for the reader. NCO China does not guarantee the completeness, accuracy, or timeliness of this information. Nothing herein shall to any extent substitute for the independent investigations and the sound technical and business judgment of the reader of this page. Laws and regulations are continually changing, and can be interpreted only in light of particular factual situations. The information on this page does not constitute legal, accounting, tax or consulting advice, and should be used only in conjunction with appropriate professional advice obtained by the reader from a suitably qualified professional who understands the reader's particular factual situation.

*Copyright © 2011 NCO China, All rights reserved.*

NCO staffs

The MailChimp logo is displayed in a light blue rounded rectangular box. The text "MailChimp" is written in a blue, cursive script font.

**Our mailing address is:**

NCO China

No.1, 3/F Tayuan Diplomatic Office Building, No.14,

Liangmahe Nanlu

Chao Yang District

Beijing, Beijing 100600

[Add us to your address book](#)

[unsubscribe from this list](#) | [update subscription preferences](#)