

How do foreigners participate in social insurance in Shanghai?

Recently, we received a consultation from a foreign-funded company's HR. A foreigner has been recruited for their senior management position and asked the HR when the company can pay social insurance for him. This is the first time they employed a foreigner, the HR is confused that whether or not foreigners working in Shanghai can participate in Shanghai's social insurance, so they came to consult us. Do you know the answer? If not, let's solve the problem for you together!

1. Do foreigners working in Shanghai need to pay social insurance?

Yes! Since October 15, 2011, while hiring foreigners, Employer shall participate in the basic pension insurance, basic medical insurance, work-related injury insurance, unemployment insurance and maternity insurance in accordance with the law. A foreigner who was employed in China before October 15, 2011 may agree on social insurance payment with the Employer in its labor (employment) contract. It means that October 15, 2011 is a cut-off day. Before this date, The Employer is not forced to pay social insurance contributions for foreigners working in China, but after this date, it becomes mandatory !

In addition, the Payment Base is the basis of social insurance, which is determined according to the average monthly salary of The Employee of last year.

The company pays social insurance for employees who have not yet retired according to the following standard. The minimum Payment Base of Shanghai Social Insurance is RMB 4,927 per month.

Item	Company	Employee	Total
Pension Insurance	16%	8%	24%
Basic Medical Insurance (including Maternity Insurance for Company)	10.5%	2%	12.5%
Unemployment Insurance	0.5%	0.5%	1%
Work-related Injury Insurance	0.16%-1.52%	-	0.16%-1.52%
Maternity Insurance	Covered in Basic Medical Insurance	-	-

Legal Basis: Interim Measures for Social Insurance System Coverage of Foreigners Working within the Territory of China (hereinafter referred to as

the “Interim Measures”). Which came into effect as of October 15, 2011.

Article 3 Foreigners lawfully recruited and employed by enterprises, public institutions, social organizations, private non-enterprise entities, foundations, law firms, accounting firms and other organizations duly registered within the territory of China (hereinafter referred to as the “Employer”) shall participate in the basic pension insurance, basic medical insurance, work-related injury insurance, unemployment insurance and maternity insurance in accordance with the law. The Employer and the employee shall pay the social insurance contributions as prescribed.

The foreigner who, after having signed labor contract with an overseas employer, is dispatched to work in branch or representative office duly registered within the territory of China (hereinafter referred to as the “Domestic work unit”) shall participate in the basic pension insurance, basic medical insurance, work-related injury insurance, unemployment insurance and maternity insurance in accordance with the law, and the Domestic work unit and this foreigner shall pay the social insurance contributions as prescribed.

Legal basis: Notice of the Ministry of Human Resources and Social Security on Relevant Issues Concerning the Participation in Social Insurance for Foreigners Employed in China¹ (issued on December 2, 2011, No.113 [2011] of the Ministry of Human Resources and Social Security)

Article 1 Local governments should strictly implement the Social Insurance Law and the Interim Measures, include eligible foreigners in the coverage of social insurance by December 31, 2011, and urge the Employers and foreigners to participate in social insurance in accordance with current laws and regulations and pay social insurance premiums on time and in full. **Foreigners who have been employed in China before October 15, 2011 and are eligible for the insurance will be eligible for the insurance payment from October 15, 2011.** The overdue fine will be waived for those who handle the procedures of participating in insurance payment from October 15, 2011 to December 31, 2011. The overdue fine will be charged from October 15, 2011 for those who handle the procedures of participating in insurance payment after January 1, 2012. Those who are employed in China after October 15, 2011 shall participate in the insurance payment from the month when they start their employment in China. Employers shall report the payment base of foreigners in the form of RMB uniformly. Local governments should collect social insurance contributions and record personal rights and interests in accordance with relevant policies and regulations.

2. How do foreigners register for social insurance?

¹ http://www.mohrss.gov.cn/xxgk2020/fdzdgknr/zcfg/gfxwj/shbx/201411/t20141117_144303.html

- a) After hiring foreigners, the Employer shall process social insurance registration with Shanghai social insurance administration center within 30 days from the date of its processing the employment permits.

Legal Basis: the “Interim Measures”

Article 4 The Employer who hires foreigners shall process social insurance registration for the foreigners recruited and employed within 30 days from the date of its processing their employment permits.

- b) “*Bilateral mutual exemption*” is allowed for foreign employees on paying social security.

Currently (as of January 2021), China has signed bilateral mutual exemption agreements for social security with Serbia, Japan, Luxembourg, Spain, the Netherlands, Switzerland, Finland, Canada, Denmark, South Korea and Germany².

Legal Basis: the “Interim Measures”

Article 9 A foreign national working within the territory of China from a state which has signed a bilateral or multilateral social insurance agreement with China shall be governed by the said agreement with regard to his or her social insurance matters.

- c) Please refer to the specific guidance:
<http://zwdt.sh.gov.cn/govPortals/bsfw/item/dc099b90-d4a5-44e9-ab27-6b24f13bfea3>

In summary, foreign employees can participate in social insurance registration in Shanghai, and the company has the obligation to pay social insurance for its foreign employees. Therefore, we suggest the HRs to register for social insurance participation for the foreign employee as soon as possible to avoid labor disputes with the employee!

The last but not the least, HRs, please contacts us online whenever you have any questions related to employees. We will try our best to provide you with consultation, help and support. By avoiding potential risks and keeping employees work hard, can the business of the company flourish and the boss will laugh a lot.

² <http://www.mohrss.gov.cn/SYrlzyhshbzb/zhuanti/waiguorencanbao/sbsbhmxid/>

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