

Tax Analysis

Hong Kong, Macau, Taiwan residents to participate in social insurance program in Mainland China

On 29 November 2019, China's Ministry of Human Resources and Social Security and the National Healthcare Security Administration issued Order No. 41, providing guidance for Hong Kong, Macau and Taiwan (HMT) residents to participate in the social insurance program in Mainland China as from 1 January 2020.

What is the change?

As from 1 January 2020, HMT residents employed in Mainland China must participate in the Mainland China mandatory social insurance program. In our experience, HMT residents seconded from foreign companies to work in Mainland China also may be considered as "employed in Mainland China" and be required to participate in the program, though Order No. 41 is not clear on this point. Individuals who continue to make social insurance contributions in their home location may choose not to enroll in the basic pension and unemployment insurance schemes. HMT resident individuals living in Mainland China, but who are not employed, may participate in the social insurance program on a voluntary basis.

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Key implications for HMT residents employed in Mainland China

Types of social insurance scheme

The program includes five types of scheme:

- Basic pension;
- Basic medical insurance;
- Work-related injury insurance;
- Unemployment insurance; and
- Maternity insurance.

Registration process

Employers must register social insurance accounts for HMT employees. Where employees relocate from one province to another, the basic pension account should be transferred to the new location.

The general registration process is the same as for employees who are Chinese nationals. Once registered, employees may obtain Chinese social security numbers and social security cards. A number of documents are required to register, including a valid ID certificate and an employment contract.

Pension and medical benefits

- **Pension distribution:** Employees who have made basic pension contributions for at least 15 years in total at retirement age may qualify for a pension on retirement. Where the contribution period is less than 15 years, employees may continue to make contributions to reach this threshold. Employees also may make a lump-sum contribution where they started to participate in the social insurance program before 1 July 2011 but cannot meet the 15-year requirement by making contributions for a further five years post-retirement.
- **Medical coverage:** Employees may enjoy medical coverage provided they have contributed for the required minimum number of years at retirement age. They may continue to make contributions post-retirement where the threshold is not met. The threshold depends on local regulations (e.g. in Beijing, it is 25 years for men and 20 years for women).

Implications of leaving Mainland China before retirement

Employees may choose either to maintain or deregister their social insurance accounts upon departure from Mainland China. Where an employee opts to maintain the account, the previous years of contributions will be aggregated with any future years should the employee return to Mainland China for employment at a future date.

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An employee who chooses to deregister his/her account may make a lump-sum withdrawal from the personal pension account but if the employee returns to work in Mainland China in the future, the period of contribution years will recommence.

Order No. 41 also addresses other practical situations such as where to apply for a pension where an employee relocates to another province.

Comments

Before the issuance of the order, the social security requirements for HMT employees in Mainland China and their employers were ambiguous. The new rule clearly sets out the obligation for Mainland China employers to enroll their HMT employees in the Chinese social insurance schemes. Companies with HMT employees working in Mainland China must be aware of local implementation rules and possible changes in local practice, review their employees' current social insurance enrollment status and ensure that they have made the necessary preparations in good time, including appropriate budget projections and employee communications where required. Where multinational enterprises second HMT residents from foreign entities to work in Mainland China, both the secondees and the relevant entities should closely monitor local implementation procedures to determine whether mandatory participation in the social insurance program would apply.

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