

Introduction of Social Security Insurance (“SSI”) in Mainland China

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General Introduction

SSI system in Mainland China consists of five types of insurances, namely pension, medical, work-related injury, unemployment and maternity insurances. In addition to the aforesaid five insurances, certain supplemental medical insurance might be levied by local governments which may vary for different locations. China entity (i.e. the local employer) should act as a withholding agent to withhold the employee’s SSI contributions from payroll and send them, together with the employer’s SSI contributions, to the in-charge authority on a monthly basis.

After the China SSI reform was implemented in March 2018, the collection of the above social security contributions was taken up by local tax bureaus. Such reform has increased the efficiency in collection and management of SSI contributions, and moved the SSI collection into a new chapter of focused management by tax bureaus.

Participation and Contribution Obligation

In most circumstances, both local employers and employees working in Mainland China should participate in the SSI scheme and the employers are withholding agents. The table below shows each party’s obligations.

Insurance type	Employee’s Contribution	Employer’s Contribution	Remarks
Pension	✓	✓	For self-employed, part-time staff and flexible-employed, who do not participate in the SSI scheme under the name of local employers, they are allowed to contribute pension and medical insurances themselves based on the relevant regulations.
Medical	✓	✓	
Work-related injury		✓	
Unemployment	✓	✓	

Maternity		✓	
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According to the Social Insurance Law of the People's Republic of China (http://www.gd.gov.cn/zwgk/zcfgk/content/post_2520662.html) (Chinese version only), the employer is obliged to register and pay the corresponding social insurance contributions for its employees, according to Article 58, Article 60, Article 62 to Article 63 of Chapter 7 of the captioned Law. These rules provide legal protection for employees to participate in social security and enjoy social security benefits.

After participating in social insurance scheme, the employees can enjoy the protection and social security benefits according to the Law. For details, please refer to Article 16 of Chapter II, Article 38, Article 39, articles 40 to 42 and articles 45 to 46 of Chapter IV of the captioned Law.

Participation requirement for Foreign Individuals and Residents of Hong Kong, Macau and Taiwan working in Mainland China

The Social Insurance Law of the People's Republic of China and its implementation rules came into effect on 1 July 2011, which established a nation-wide social security system. Following the international practices and to protect the legitimate rights and interests to participate in and enjoy SSI benefits for foreign individuals working in Mainland China, the Law specifically stipulates that foreign individuals working in Mainland China are also required to participate in the SSI scheme.

Foreign individuals who are directly employed by Chinese companies or dispatched by overseas employers to work in their subsidiaries, branches or representative offices located in Mainland China, as well as those who have obtained employment certificates, aliens' residence certificates or permanent residence certificates in China, are required to participate in the SSI scheme.

In addition, foreign individuals who have participated in SSI would receive the SSI ID cards issued by the local government, which enable them to enjoy all SSI benefits same as Chinese employees. For example, if foreign individuals who previously terminated their China employment return to work in Mainland China again, their pension insurance contribution periods under the previous and current employment could be accumulated.

If foreign individuals terminate China employment and leave Mainland China before reaching the prescribed retirement age, they can apply in writing for termination of SSI account and withdraw the deposit in the personal SSI account in one go afterwards. If the foreign individuals meet the prescribed conditions (e.g. reaching minimum contribution years), they can apply for the monthly pension once reaching the prescribed retirement age.

According to the *Interim Measures for Residents of Hong Kong, Macao and Taiwan to Participate in Social Insurance in Mainland China* issued by the State Administration of Human Resources and Social Security on November 29, 2019 (<http://www.mohrss.gov.cn/gkml/zcfg/bmgz/201911/t20191130.html>) (Chinese version only), it clearly stipulates that residents from Hong Kong, Macao and Taiwan legally employed by Chinese entities should participate in basic scheme of pension and medical insurance for employees, work-related injury insurance, unemployment insurance and maternity insurance, which shall be paid by both employee and the employer in accordance with the regulations. Hong Kong, Macao and Taiwan residents who obtain China Residence Permits may participate in the scheme of basic insurance and basic medical insurance for employees or urban and rural residents in accordance with the relevant regulations. Hong Kong, Macao and Taiwan students studying in mainland China, can apply for the same medical insurance policy as Chinese students, and participate in the basic medical insurance for urban and rural residents in the location of higher education institutions as required. Hong Kong, Macao and Taiwan residents participating in social insurance shall enjoy social insurance benefits according to Chinese laws. The above interim measures have come into effect on January 1, 2020.

At the same time, Article 11 of the above-mentioned Interim Measures stipulates that residents from Hong Kong, Macao and Taiwan who have already participated and maintain to the compulsory social insurance scheme in their home cities, can apply for exemption from Chinese basic pension scheme and unemployment insurance in mainland China with the supporting of Certificates issued by relevant authorized institutions.

Furthermore, in view of the special circumstances of those Hong Kong, Macao and Taiwan residents working in mainland China, the above-mentioned Interim Measures proposed

corresponding regulations to protect the benefit for them. For example, Article 7 of the Interim Measures provides treatment for the social insurance relationship while they leave mainland China. That is, if Hong Kong, Macao and Taiwan residents leave mainland China before retirement, their individual social insurance accounts shall be retained and can be re-activated when they come back to mainland China again for employment or residence purpose so that they can continue their social insurance contributions and the payment period shall be counted accumulatively. If they apply in writing to terminate the social insurance relationship, they can get the deposit equals to the amount being kept in their personal social insurance account. If the former mainland residents who have obtained the Permanent Residency status of Hong Kong, Macao and Taiwan, if they choose to maintain the social insurance relationship when they left mainland China, but, once they return to mainland China due to employment or residency and then want to continue the social insurance contributions, the previous contribution period can be combined to the subsequent contribution period. If they decide to terminate the social insurance relationship when they leave mainland China, the previous contribution period shall not be combined to the subsequent contribution period, and the fund maintained in their social insurance individual accounts can be paid to them. As for the protection of the rights and interests of Hong Kong, Macao and Taiwan residents who have made the social insurance contributions in mainland China, Article 13 stipulates that "if the employer fails to register social insurance for the Hong Kong, Macao and Taiwan residents recruited or fails to pay social insurance premiums for them according to the law, the employer may be penalized in accordance with the provisions of the social insurance law and other relevant administrative regulations."

Totalization Agreement between China and Other Countries

Up to 30 September 2019, China has signed Totalization Agreements with 11 countries. Nationals from the following countries can be partially exempted from the SSI contribution in Mainland China (refer to table below for details).

Country	Date of entry into force	Exemptible insurance
Germany	4 April 2002	Pension and Unemployment

Republic of Korea	16 January 2013	Pension and Unemployment
Denmark	14 May 2014	Pension
Canada	1 January 2017	Pension
Finland	1 February 2017	Pension and Unemployment
Switzerland	19 June 2017	Pension and Unemployment
The Netherlands	1 September 2017	Pension and Unemployment
Spain	20 March 2018	Pension and Unemployment
Luxembourg	1 May 2019	Pension
Japan	1 September 2019	Pension
France	Signed on 16 September 2019, with effective date to be confirmed.	To be confirmed

For the types of SSI not covered by the totalization agreements, foreign individuals are still required to contribute thereto.

Development Trend for SSI Policy in Greater Bay Area (“GBA”)

In order to further protect the pension rights of cross-border workers, the Guangdong Provincial Human Resources and Social Security Department (“GDPHRSSD”) supports the residents from Hong Kong and Macau who are employed / set up their own business in Guangdong Province to participate in pension insurance for employees, and includes the Hong Kong and Macau residents who live in Guangdong Province without active employment in the municipal/township resident pension insurance coverage. Meanwhile, Project GBA Shebao Tong was kicked off to develop the pilot areas for comprehensive application of SSI card financial functionality to promote SSI card coverage across Hong Kong and Macau.

GDPHRSSD has also issued the “Views on Further Improvement of Pension Insurance Measures for Hong Kong and Macau Residents living in Guangdong Province” (http://www.gov.cn/xinwen/2019-12/21/content_5462893.htm) (Chinese version only), allowing certain flexibilities for Hong and Macau residents who live and/or work in Guangdong in making their pension insurance contributions. After the release of these policies and measures, Hong Kong and Macau residents living in Guangdong Province would have greater protection.

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