

Potential changes to the Chinese social security system for foreign nationals working in China

From 1 July 2011, social security contributions (for both employers and employees) are likely to be payable in respect of all non-Chinese nationals working in China (including residents of Hong Kong, Macau and Taiwan). Currently in its consultation stage, it is expected that the new social security rules will be implemented and backdated to 1 July 2011.

The current social security system

Under the current system, non-Chinese nationals and their employers are not subject to Chinese social security.

What changes have been made?

From 1 July 2011 non-Chinese nationals seconded to work in China or working directly for a local Chinese business will potentially be subject to Chinese social security. The Chinese entity is responsible for performing social security registration for non-Chinese nationals.

Social security contributions will be the same as those for Chinese employees, with contributions covering pension, medical, work-related injury, unemployment and maternity cover. The relevant contribution rate will vary significantly depending on where the individual is based, but could be as high as 40% for employers and 12% for employees. There will be also a cap for the maximum payable, which is expected to be three times the average wage in the province/city where the employee works.

For example in respect of an employee based in Shanghai, it is expected that the maximum monthly contributions will be approximately RMB 1,285 (£125) employee and RMB 4,325 (£420) for employers. Total annual combined charges could therefore be as high as £6,500.

If the non-Chinese nationals leave China before the required date of drawing pension, the employee's pension contributions may potentially be withdrawn on a one-off basis by making a written application to the Chinese authorities. Alternatively, they may choose to maintain their accounts as they may return to work in China.

Only foreign nationals of countries with bilateral or multilateral social security agreements with China will be exempted from the contribution obligations. Currently there are only two such agreements with South Korea and Germany. The UK does not hold such an agreement with mainland China.

For the People's Republic of China employer, failure to pay social security contributions will trigger a late surcharge at 0.05% of due contributions and a potential penalty up to three times the due contributions.

The position for UK employees

As there is no social security agreement between the UK and China, employers and employees UK National Insurance will remain due for the first 52 weeks of any employee's secondment to China. There is a possibility, therefore, that both Chinese social security and UK National Insurance could be due for the first year of any secondment.

What action should UK employers take?

Those employers who are considering seconding or who have seconded individuals to work in China should plan for social security contributions when budgeting costs of employing and continuing to employ people in China.

Employers should also review the remuneration structure and benefits offered to employees to avoid potential charges to social security in two countries.

Who should I contact?

For further information regarding how the newly proposed social security system could impact your business, please contact:

Nick Farr

Partner and Head of China Britain Services Group

Grant Thornton UK LLP

T +44 (0)207 728 2691

E nick.farr@uk.gt.com

