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## China Enacts Social Insurance Law

China's top legislature adopted the Social Insurance Law of the People's Republic of China on October 28, 2010. It came into effect on July 1, 2011.

Prior to 2007, China had no specific national law for social insurance. The Law was first reviewed in December 2007 and was further reviewed for four times before adoption. Although the Labor Law of China then specified that employees should enjoy rights in social insurance, the local governments had different interpretations and execution standards and some employers did not pay or paid less than the social insurance fee they were supposed to pay for their employees and some migrant workers were not willing to pay for it as they didn't understand the benefits. This Social Insurance Law is the first legislation for a social insurance system in China and is of great significance to overcome the obstacles the Labor Law had encountered and ensure the rights and benefits of workers in China.

The Social Insurance Law specifies the five basic social insurance systems, which are applicable to employers and employees within the territory of China and are compulsory.

### 1. Basic Pension Scheme

Full time employees (including rural residents working in cities and foreigners working in China) must be registered for basic endowment insurance, and both the employer and the employee pay part of the contribution. The employer and the employee each pay a portion of the total salary as basic endowment insurance fee. The employer's contributions are based on the total payroll for the period concerned, and the amount will be credited to basic pension insurance fund. The employee pays contributions based on his/her own salary, and the fee is credited to their individual account for pension purpose.

Part-time employees and those in flexible employment may take part in basic endowment insurance independently. They shall pay their basic endowment insurance fee in accordance with stipulations of the country, which will be credited to both the basic pension insurance fund and their individual accounts.

For individuals moving to new employment, their basic endowment insurance data will be transferred with them and the contribution years will be calculated accumulatively.

### 2. Basic Medical Insurance

Employees must be registered for basic medical insurance, and both the employer and the employee pay basic medical insurance contributions. Part-time employees and others in flexible employment

may take part in basic medical insurance independently and shall pay their basic medical insurance expense in accordance with stipulations of the country.

For individuals moving employment, their basic medical insurance data will be transferred with them and the contribution years will be calculated accumulatively.

### **3. Work-related Injury Insurance**

Employees must be registered for occupational injury insurance and the occupational injury insurance fee is to be paid fully by the employer with no contribution from the employee and shall be in accordance with the rate determined by social insurance authority.

Any employee, who is injured or suffers from an occupational disease due to the work he/she is engaged in, can obtain work-related injury insurance treatment once the injury or disease has been confirmed. If the employee loses his/her ability to work, he/she will enjoy the disability treatment after assessment by the related authority.

If the employee is injured or dies as a result of one of the following causes, his/her injury/death will not be acknowledged as work-related injury/death:

- ◆ Intentional offense;
- ◆ Drinking or drug addiction;
- ◆ Self mutilation or suicide;
- ◆ Other circumstances specified by laws and regulations.

The following expenses caused by work-related injuries shall be paid by the employer in accordance with stipulations of the country:

- ◆ Wage and welfare during the treatment period of occupational injuries;
- ◆ Disability subsidy paid to Class V and VI disable employees on a monthly basis;
- ◆ One-off disability employment subsidy upon termination or dissolution of the labor contract.

If the employer does not pay work-related injury insurance fee, they will be solely responsible for expenses equal to occupational injury insurance treatment in case of any occurrences.

### **4. Unemployment Insurance**

Employees must be registered for unemployment insurance and the unemployment insurance fee is paid by both the employer and the employee as determined by the country. The rate of unemployment benefit is determined by the government of each province, autonomous region and municipality where employers are located, but the unemployment benefit shall not be lower than the minimum subsistence standard of the urban residents.

Employers must issue proof of termination or dissolution of labor relation for unemployed people in time and submit a list of unemployed people to the social insurance authority no later than 15 days after the labor relation is terminated or dissolved.

For individuals moving employment, their basic unemployment insurance accounts will be transferred with them and the contribution years will be calculated accumulatively.

## **5. Maternity Insurance**

Employees must be registered for maternity insurance, and maternity insurance fees are payable solely by the employer with no contributions required by employees. If the employer has paid the maternity insurance fees, the employee can benefit from maternity insurance treatment, and an unemployed spouse of the employee can obtain maternity medical expense treatment in accordance with the stipulations of the country (Maternity insurance treatment includes medical expenses for childbirth and childbirth subsidy).

## **6. Employers' Obligations**

Employers must register at local social insurance authority within 30 days after establishment. In case of any change, the employer shall report the change to the authority within 30 days.

Employers must register on behalf of their employees within 30 days of employment commencing. In case of failure to register, the social insurance authority can determine the amount of social insurance fee they shall pay.

Employer must pay social insurance fees in full and on time except for factors of force majeure. The portion to be paid by employees shall be deducted from their salaries by the employer, and the employer shall notify the employees of the deduction details on a monthly basis.

## **7. Legal Consequences for Failure to Register or Inappropriate Payment**

If the employer fails to register, the social insurance authority can require them to make rectifications within a specified time limit. If they exceed the time limit to rectify, a fine of 1 to 3 times of amount of social insurance fee shall be collected from the employer, and a fine of RMB500~3000 shall be collected from the person in charge and other personnel concerned.

If the employer fails to pay social insurance fee in full and on time, the social insurance authority shall require them to pay in full amount within a specified time limit and collect 0.05% of overdue payment each day. If they still fail to pay, a fine of 1 to 3 times of the amount in arrears shall be collected by the relevant administration department.

In case of the employer failing to pay or make up for the unpaid social insurance fee within the time limit, the social insurance authority is in the position to inquire in their deposit account in the bank or other financial institutions, and apply to the relevant administrative department to recover the social insurance fee.

In case the balance in the account of the employer is less than the amount of social insurance fee that shall be paid, the social insurance authority may require the employer to provide a guarantor and sign an agreement to postpone payment.

In case the employer fails to pay the social insurance fee in full and/or provide a guarantor, the social insurance authority can apply to the court for detaining, freezing or selling by auction their assets with their value equal to the amount of social insurance fee they shall pay.

Further Readings:

[Full text of Social Insurance Law of the People’s Republic of China in English language](#)

[Full text of Social Insurance Law of the People’s Republic of China in Chinese language](#)

*If you wish to obtain more information or assistance, please visit the official website of Kaizen CPA Limited at [www.kaizencpa.com](http://www.kaizencpa.com) or contact us through the following and talk to our professionals:*

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