

**DEZAN SHIRA & ASSOCIATES**

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

# **An Introduction to the Chinese Social Security System and the Participation of Foreigners**

Adam Livermore

Manager – Payroll & HR Admin

*Dezan Shira & Associates*

# Agenda

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- I. The Social Security System in China
  - a. Pension
  - b. Medical Insurance
  - c. Unemployment Insurance
  - d. Work-related Injury Insurance
  - e. Maternity Insurance
  
- II. Obligations for the Employer
  
- III. Explanation of the Benefits that can be Claimed
  
- IV. Issues Relating to Impending Participation of Foreigners

# Section 1

## The Social Security System in China

- Explanation of Component Elements
- Detailed Calculations Using Examples

## Pension

### Employer

- 12 - 22% of monthly salary to be contributed
  - Based on average salary of the company
- Go to a public pool account

### Employee

- 8% of salary to be contributed
- Go to “personal pension account”

- Individuals need to make contributions for a minimum of 15 accumulative years before claiming pension
- Retirement age:
  - Blue collar: 55 men | 50 women
  - White collar: 60 men | 55 women

# Medical Insurance

## Employer

- 5 - 12% of monthly salary to be contributed
- Go to a public pool account
  - Used for inpatient costs

## Employee

- 2% of salary to be contributed
- Go to “personal” account
  - Administered through medical treatment card

- Medical Insurance Fund will refund medical expenses to the hospital that carries out the treatment
- Patients will no longer have to pay treatment fees upfront and wait for compensation later
- Medical Insurance *only* covers treatments administered in government-approved hospitals and clinics (this excludes “international clinics”)

# Unemployment Insurance

## Employer

- 0.2 - 2% of monthly salary to be contributed
- Obligated to provide *“Termination of Employment”* evidence within 15 days of release

## Employee

- <1% of salary to be contributed
- Unemployment benefit can be claimed for a maximum period of 24 months after unemployment

- The amount of benefit received is not related to the salary previously received or the premiums paid

# Work-Related Injury Insurance

Employer	Employee
<ul style="list-style-type: none"><li>• 0.5 - 2% of monthly salary to be contributed</li><li>• Insurance company will reimburse company for cost of treatment</li></ul>	<p><b>No contribution</b></p>

- Work-related Injury Insurance removes requirement of the employer to pay for an employee's treatment
  - Some salary must still be paid during period of recuperation
  - If the employee cannot return to work compensation must be paid

## Maternity Insurance

Employer	Employee
<ul style="list-style-type: none"><li>• 0.5 - 1% of monthly salary to be contributed (<i>male and female staff</i>)</li><li>• Covers:<ul style="list-style-type: none"><li>• Cost of salary</li><li>• Cost of childbirth (fixed sum)</li></ul></li></ul>	<h1>No contribution</h1>

- Monthly payments from the insurance fund to women during their maternity leave will be made based on the average salary paid by the company to its employees
- This benefits employers because, during the period of maternity, salary is not required to be paid. Payment is instead funded by the insurance



## Social Insurance Figures - BEIJING

Contribution Base RMB 1,680 - RMB 12,603 (Average social salary RMB 4,201)										Contribution Range RMB 139.2 – 1,513	
Pension		Unemployment		Maternity		Work-related injury		Medical		Housing Fund	
C	I	C	I	C	I	C	I	C	I	C	I
20%	8%	1%	0.2%	0.8%	N/A	0.5%- 2%	N/A	10%	2%+3 RMB	12%	12%

C = Company (32.3% - 33.8%) ; I = Individual (10.2% + 3 RMB)

## Social Insurance Figures - Shanghai

Contribution Base RMB 1,680 - RMB 11,688 (Average social salary RMB 3,896)										Contribution Range RMB 2,337-12,603	
Pension		Unemployment		Maternity		Work-related injury		Medical		Housing Fund	
C	I	C	I	C	I	C	I	C	I	C	I
22%	8%	2%	1%	0.5%	N/A	0.5%- 2%	N/A	12%	2%	7%	7%

C = Company (37% – 38.5%) ; I = Individual (11%)

## Employer Mandatory Benefit Calculation

- Employee based in Beijing
- Monthly salary RMB 20,000
- Base salary used for contribution is the upper limit - **RMB 12,603**
- **Maximum Employer contribution (Beijing) – 33.8%**

Insurances	Social Insurance Base	
	Min. Limit (RMB)	Max. Limit (RMB)
Pension	1,680.00	12,603.00
Unemployment	1,680.00	12,603.00
Work-Related Injury	1,680.00	12,603.00
Maternity	2,521.00	12,603.00
Medical	2,521.00	12,603.00

**Pension**  
@ 20% =  
RMB 2,520.60

**Medical**  
@ 10% =  
RMB 1,260.30

**Work Injury**  
@ 3% =  
RMB 378.09

**Maternity**  
@ 0.8% =  
RMB 100.82

**Unemploy.**  
@ 1% =  
RMB 126.03

### Total Cost for Employer

$$20,000 + 2,520.60 + 1,260.30 + 378.09 + 100.82 + 126.03 = \underline{\underline{\mathbf{RMB\ 24,385.84}}}$$

## Employee Mandatory Benefit Calculation

- Expatriate working in Beijing earning RMB 20,000 per month
- Base salary used for contribution is the upper limit - **RMB 12,603**
- **Maximum Employee contribution (Beijing) – 10.2% + RMB 3**

Insurances	Social Insurance Base	
	Min. Limit (RMB)	Max. Limit (RMB)
Pension	1,680.00	12,603.00
Unemployment	1,680.00	12,603.00
Work-Related Injury	1,680.00	12,603.00
Maternity	2,521.00	12,603.00
Medical	2,521.00	12,603.00

**Pension**  
@ 8% =  
RMB 1,008.24

**Unemploy.**  
@ 0.2% =  
RMB 25.21

**Medical**  
@ 2% + RMB 3 =  
RMB 255.06

### Taxable Salary for Employee

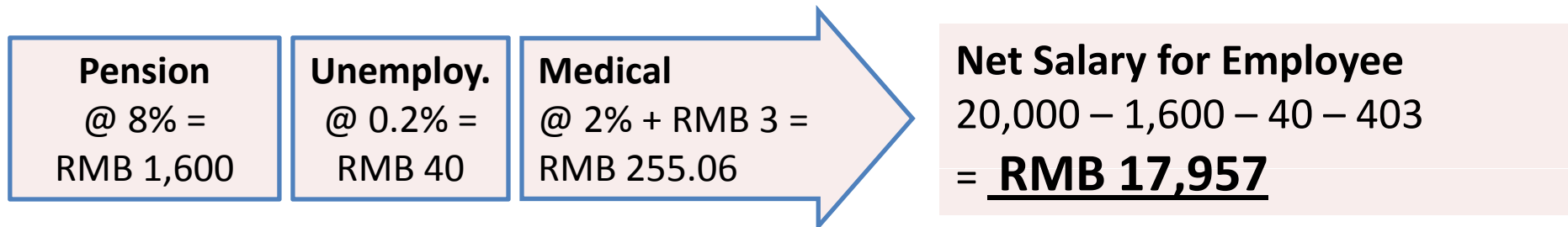
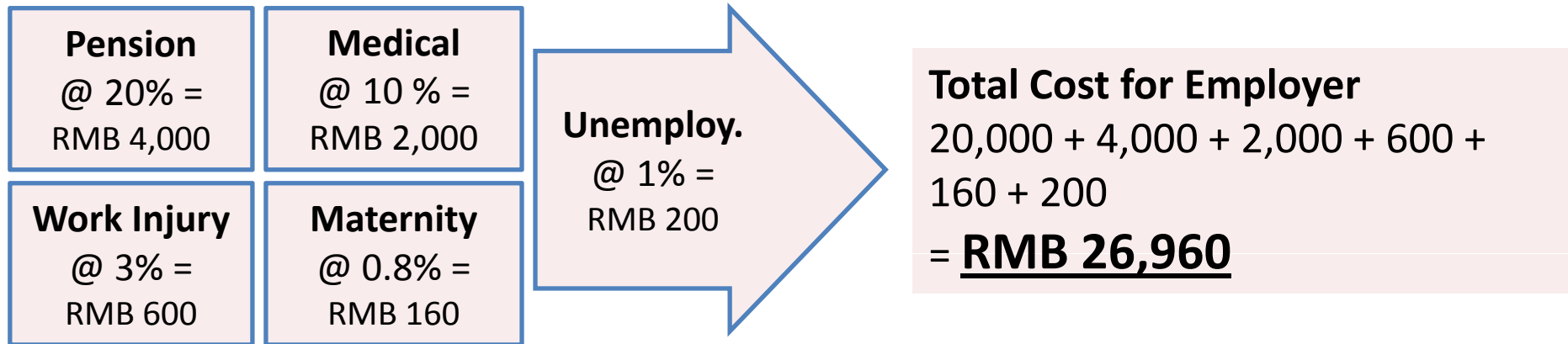
$20,000 - 1,008.24 - 25.21 - 255.06$

= **RMB 18,711.49**

## Mandatory Benefit Calculation based on Removed Caps

*Same scenario as before but let us remove the caps...*

- Expatriate working in Beijing earning RMB 20,000 per month
- **Maximum Employer contribution (Beijing) – 34.8%**
- **Maximum Employee contribution (Beijing) – 10.2% + RMB 3**



# Section 2

## Obligations for the Employer

- Setting up accounts for company and individuals
  - Withholding and making contributions
- Additional obligations not covered by social insurance
  - Penalties for non-compliance

## Company Social Security Account Set Up: Beijing

### 1. Collect Documentation

Business License  
Enterprise Code Certificate  
Certificate of Approval  
ID of Legal Representative (Passport)  
Social Insurance Information Collection Form



### 2. Deliver Employee Information to Social Insurance Bureau

All documents and info, originals and hard and electronic copies (to be saved onto a USB key) to be physically taken to the bureau



### 3. Receive Account Number and Electronic Certificate

Within 15 days social welfare account number displayed on social welfare bureau website

Fill out "Setup Application Form" which includes account number and pay RMB260 for electronic certificate

Register employees online



### 4. Complete Bank Contract

Ensures that the monthly social security contributions can be directly remitted to the social insurance bureau each month



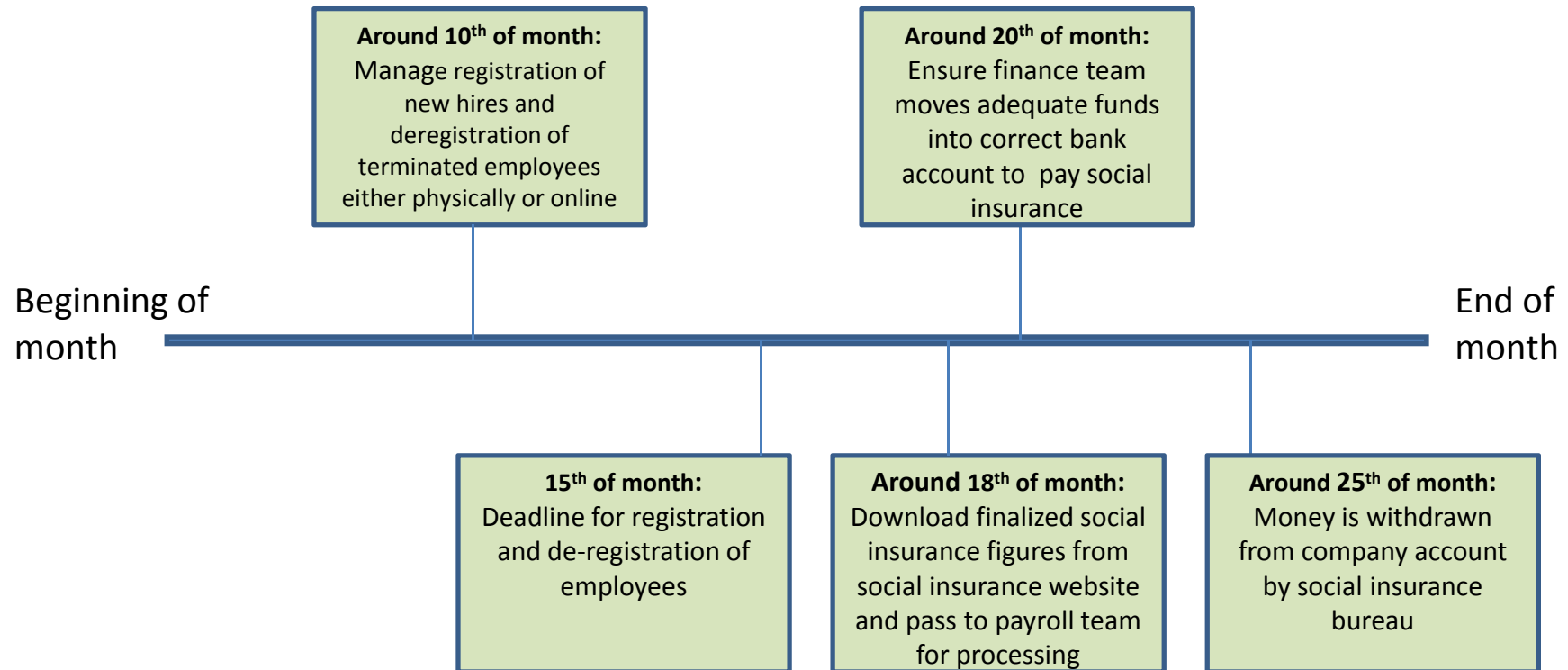
### 5. Update Account

Documentation for new hires must be submitted physically to the bureau

Deregistration of terminated employees can be done online

# Monthly Social Insurance Timeline

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## Additional Obligations for Employers

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The Chinese social insurance system will cover certain costs. However there are still various items for which the employer must take responsibility. These include:

- Salary for employees during their period of work injury
- Lump-sum payment for employees who are unable to resume work after a work injury

Employers should also pay:

- Union fees (in Beijing, 2% of total salary)
- Disabled fund (if the company does not employ the minimum stipulated number of disabled employees)

# Penalties for Non-Compliance

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➤ **Penalties**

Penalties can be imposed @ 1-3 times the outstanding liability

➤ **Interest**

Interest is calculated @ 0.05% per day on the outstanding liability

(Note: The above assumes that an official order to pay is received from the authorities)

## Section 3

### Explanation of the Benefits that can be Claimed

- What are the benefits?
- How can they be claimed?
- Potential problems during the claim process if the employer has not maintained compliance with the system

# Pension

## Benefit

- The amount accumulated in the individual's "private pool" can be gradually drawn down after retirement
- Upon death of the claimant, balance in "private pool" can be inherited
- If "private pool is exhausted, individual can claim some smaller amount from the "public pool"

## How to Claim

- Make contributions for a minimum of 15 accumulative years
- Reach retirement age
- Complete procedures at the pension management centre

# Medical Insurance

## Benefit

- Part of the cost of various medical costs can be covered by insurance
- The individual's contribution accumulates in a "medical card" that can be used to directly pay for medicine at pharmacies or for out-patient treatment at hospitals

## How to Claim

- Contributions must have been made for a whole year prior to making a claim
- For hospitals outside of area where contributions made, lots of documents need to be supplied

# Unemployment Insurance

## Benefit

- If an employee is dismissed he / she can claim unemployment benefit for a maximum period of 24 months. In Shanghai, the amount that can be claimed each month varies between 515 – 730 RMB depending on various factors

## How to Claim

- Contributions must have been made for a whole year prior to making a claim
- Various procedures to be completed in the unemployment centre

# Work Injury Insurance

## Benefit

- Medical treatment related to injuries or illnesses sustained at work can be covered by work injury insurance

## How to Claim

- Fill out form for acceptance of work injury claim
- Evidence that labor relationship is in place with patient
- Evidence of illness / injury
- Other documentation relating to the employer (business license etc.)

# Maternity Insurance

## Benefit

- During the period of maternity / paternity the employee receives a certain sum. This sum should be equal to the average salary paid by the company to its employees, however many regional differences still exist.
- There is also an amount payable for the birth of the child, which varies depending on the precise circumstances surrounding the birth

## How to Claim

- Contributions must have been made for a whole year prior to making a claim
- Provide personal ID and evidence from hospital relating to the birth



# Potential Problems

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- **Failure to make contributions during every previous month over the past year**

**Reasons:**

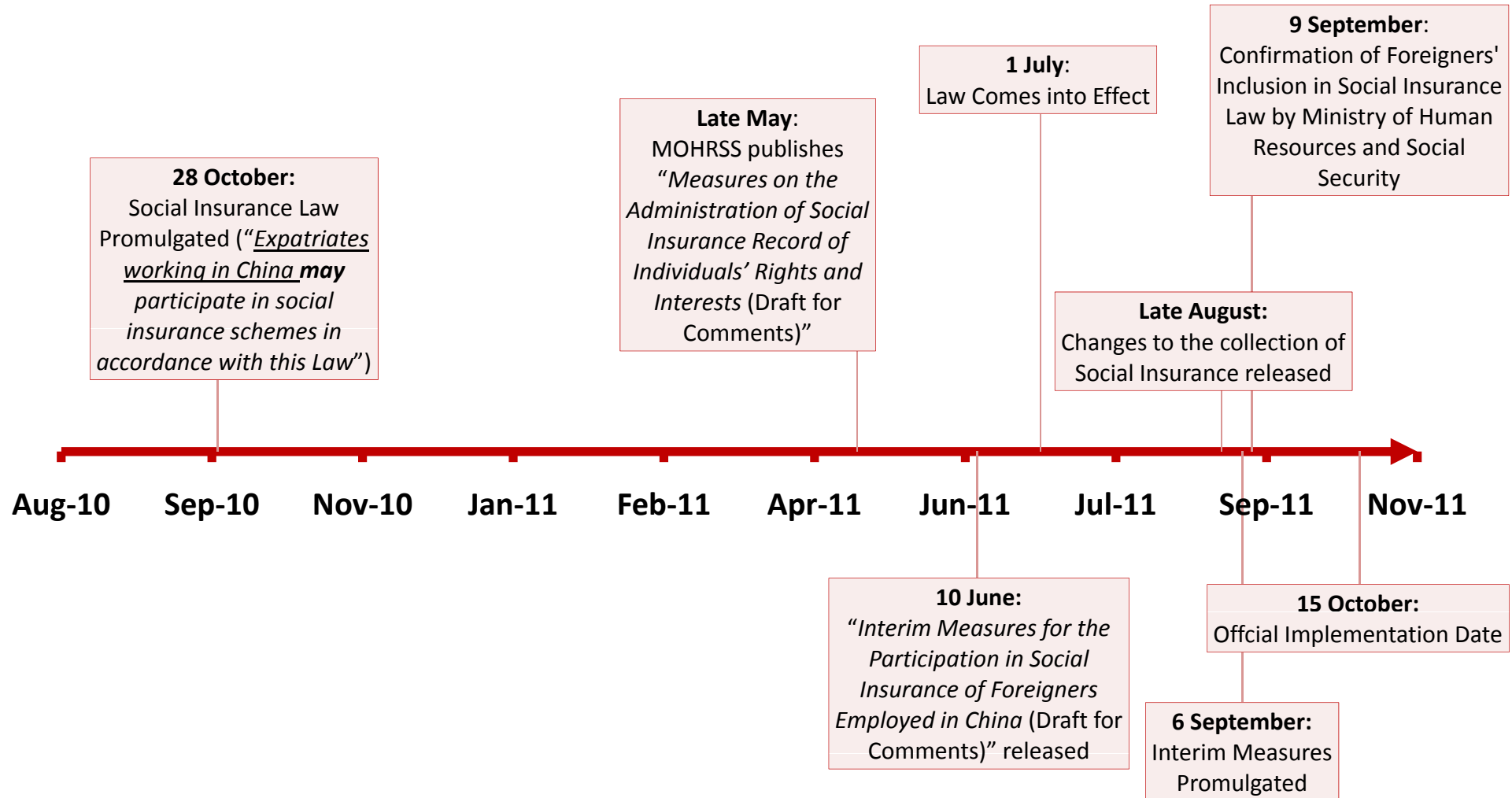
- **Delay in company incorporation**
  - **Failure to register new employee by deadline**
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- **In certain areas (like Beijing for instance) the company is not able to make insurance payments for maternity on behalf of employees that are not residents. In such situations, the company must burden the salary of the employee for this period**

## Section 4

### Impending Participation of Foreign Employees

- What is the current situation?
  - When are foreigners likely to be formally included?
- What effect will this have on company cost relating to these individuals?
- What effect will it have on the take home pay of these individuals?
  - Special considerations for German and Korean staff
- Potential removal of cap on employer's contribution base
  - How would this affect company HR costs?
    - Potential ways to reduce the burden

# Social Insurance Law Timeline



# *“Interim Measures for the Participation in Social Insurance of Foreigners Employed in China”*

## Article 2:

“For the purpose of these Measures, foreign workers in China means people without Chinese nationality who have obtained the Employment Certificate for Foreigner, the Certificate of Foreign Expert, the Certificate of Permanent Foreign Correspondent or other employment certificates and residence certificates for foreigners in accordance with the law, and have possessed the Permanent Residence Certificate for Foreigner, and have lawfully been employed in China”

*“Interim Measures for the  
Participation in Social Insurance of  
Foreigners Employed in China”*

Article 3

“Any foreign worker..... registered in accordance with the law in China (hereinafter the "employing unit") shall participate in basic endowment insurance for employees, basic medical insurance for employees, work-related injury insurance, unemployment insurance and maternity insurance”

# *Beijing Implementation*

## Article 1

“Employers who hire foreigners In accordance with the law should carry on social insurance registration at local Social Insurance Fund Management Center and Social Insurance Agency within 30 days from the date of getting employment permits for them”

## Registering Foreign Employees (Beijing)

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**Foreign Employees should provide their employers with the following materials (to be taken to the Social Insurance Bureau on their behalf):**

- Passport (original and photocopy)
- Employment Permit for Foreigners, Foreign Expert Certificate or Permits for Permanent Foreign Journalists (original and photocopy)
- Residence Permit (original and photocopy)
- 3 filled-in copies of Personal Information Registration Forms for Social Insurance in Beijing
- 2 recent one-inch color photos of expat wearing dark shirt against white background

For foreigners who hold the ***Beijing High-level Overseas Talents Residence Permit*** or ***Foreigner Permanent Residence Certificate***, items (ii) and (iii) above will be replaced by the permit/certificate.

## “Personal Information”

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**Foreign Employees should provide their employers with the following personal information:**

Name	ID Number	Gender
Date of Birth	Education Level	Mobile Phone No.
Current Address (including post code)	Average Monthly Salary for Declaration *	Date of Commencement of Employment
Nationality	Passport Number	Residence Permit Number
Suffering from any Special Diseases?		

\* The ceiling figure for contribution calculation may be entered here, not the real salary if it will be higher than this ceiling figure



# Specific Issues: Pension

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- Where a foreigner departs China prior to the stipulated age for receiving pension, his/her individual account will be retained. If the foreigner re-enters China for employment, the payment period can be calculated cumulatively
- Upon written application by the foreigner, the social insurance agency can pay the foreigner the amount in his/her individual account in one lump sum and terminate the basic pension relationship
- Upon the foreigner's death, the amount remaining in the individual pension insurance account can be inherited

# Specific Issues: Other Insurances

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- Medical:

The insurance can only be taken advantage of at stipulated hospitals. There is a concern that many of these hospitals will not have staff able to communicate effectively in English. For many foreigners, this will be a significant barrier

- Unemployment:

Foreigners will presumably not be allowed to stay in China in the absence of an employer, so cannot take advantage of this

- Maternity:

It is not clear how foreign employees will be incorporated due to lack of restrictions on multiple births etc.

# Practical Implementation: Beijing

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## Overall Situation:

- Some foreign companies are actively registering their staff
- Many are taking a wait-and-see attitude
- Nothing has been released by the local authorities suggesting that penalties will be imposed on companies not registering their foreign staff immediately, although theoretically under the social insurance law this could be a possibility
- Currently contributions can be made for the current month only, the government may require companies to contribute retroactively back to July / October at a later date

# **Practical Implementation: Shanghai**

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We have no details of any implementing rules released by Shanghai so far

# Foreigners Exempt from Contributions

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- For foreigners who are nationals of countries that have entered into **bilateral or multilateral treaties** relating to social insurance with China, his or her social insurance participation will be handled in accordance with such treaties
- To date, only **Germany** and **South Korea** have signed bilateral social insurance agreements with China.
- Recent discussions have been initiated regarding potential bilateral social insurance agreements with several countries including **France, Belgium and Japan.**

## Estimate of Additional Company Cost

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### Assumptions:

- 100 foreign employees in Beijing, another 100 in Shanghai
- All earning above local ceiling figure (around 12,603 RMB / month)
- No Germans, Koreans, or people from Hong Kong, Taiwan or Macau

Beijing	Shanghai
Current Maximum Cost/Emp = 4,260RMB	Current Maximum Cost/Emp = 4,500 RMB
Cost @ 100 emps = 426,000 RMB / month	Cost @ 100 emps = 450,000 RMB / month

## Estimate of Employee Burden

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### Beijing

Pension =  $12,603 * 8\% = 1,008$  RMB

Medical =  $12,603 * 2\% + 3 = 255$  RMB

Unemp. –  $12,603 * 0.2\% = 25$  RMB

Total Contribution = 1,288 RMB / month

### Shanghai

Pension =  $11,688 * 8\% = 935$  RMB

Medical =  $11,688 * 2\% = 234$  RMB

Unemp. –  $11,688 * 1\% = 117$  RMB

Total Contribution = 1,286 RMB / month

Total contribution will be almost identical in Beijing and Shanghai

Note that of this contribution, pension will be refunded when the employee leaves China, however detailed implementation rules on how this will happen have yet to be released

This amount can be deducted by the employee before calculation of Individual Income Tax

## Other Costs.....

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- Extra cost for the administration of registering and deregistering foreign employees
- Extra cost for organizing the refund of employee pension once they have left China
- Extra cost relating to the administration of bilateral or multilateral agreements covering certain foreign staff (if it is decided internally to take advantage of such agreements)



# Items for Consideration

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- Amendment of contract template for inclusion of social insurance provision and detail of how burden is to be split
- Addition of clauses into contract template relating to tax-exempt allowances for foreigners
- Amendments to employee handbook could be carried out at the same time

# Contract Template Amendment

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Our Suggestion:

**“Party A (employer) shall arrange for social insurance for Party B (employee), and shall, when paying the monthly remuneration to Party B, withhold those social insurance contributions that shall be legally undertaken by Party B”**

“甲方（公司）依法为乙方（员工）办理各项社会保险。依法规定之分摊比例属于乙方须自行承担之各项社会保险金，由甲方于每月发薪时，从乙方的薪资中代扣代缴”

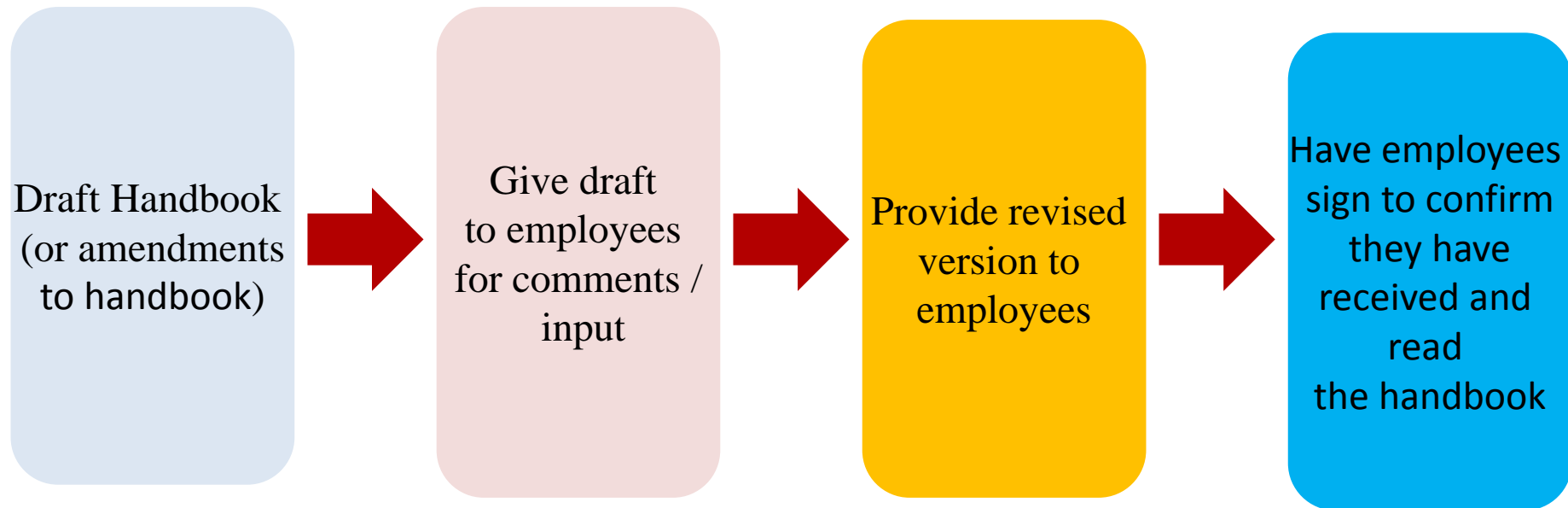
# Amendments to Employee Handbook

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- Employee Handbook critical to facilitate termination of employees in certain circumstances
- Information contained in handbook could be reviewed / amended / supplemented as necessary
- When explaining to employees about changes to social security / tax etc., it is also possible to explain about the changes to employee handbook
- Specific procedure must be followed to validate employee handbook

# Validation of Employee Handbook

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# Future Risk of Removal of Cap

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- Current Cap @ 12,603 / month in BJ; 11,688 / month in SH, therefore maximum employer contribution roughly 4,500 RMB / month
- Possibility exists that cap for employer may be removed in the future. If this happens the employer will be liable to pay 32.3% (Beijing) / 37% (Shanghai) on top of entire salary paid to both Chinese and foreign employees
- A similar policy has already been implemented in Dalian, northeastern China. Details can be provided separately

# Repatriation of Pension Tax Risk

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- Government has announced that pension contributions from the employee may be repatriated after the individual leaves China
- However no details have been released about how this process will be handled, and whether any tax will be imposed at this stage
- Although no IIT will be imposed at the point of contribution, there is a concern that there might be IIT imposed at withdrawal

# Retroactive Payment Risk

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- In principle, the authorities have the ability to require companies to make contributions for their employees backdated to July 1<sup>st</sup> 2011
- Beijing local government has announced that currently contributions will only be collected from November due to system limitations
- However after registrations are working smoothly and the system functions efficiently they may request retroactive payment from July or possibly October

# Inclusion of HK / Macau / Taiwanese Risk

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- Currently such individuals are not considered “foreigners”, therefore they are not covered by the current legislation
- We understand that there may be separate legislation released later to cover this group
- Such legislation might require contributions to be made retroactively from 1<sup>st</sup> July / October 2011 (commencement of new social insurance law and announcement of confirmation of participation of foreigners)



**DEZAN SHIRA & ASSOCIATES**

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

# Question & Answer

adam.livermore@dezshira.com

Tel: +86 411 6299 0101

Ext 501

**Thank you for your attention!**

[www.dezshira.com](http://www.dezshira.com)