

August 5, 2011

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Mr Gregory SO Kam-leung, JP
Secretary for Commerce and Economic Development

Dear Gregory,

Exempt Hong Kong employees from the Social Insurance Law

On behalf of our members, we write to urge the government to raise the issue of China's new Social Insurance Law (SIL) with the Central government to seek exemption of Hong Kong residents working in China, and their employers, from these programmes and its associated cost.

China's new SIL encompasses pensions, medical coverage, unemployment benefits, work-related injury insurance and maternity insurance. Estimates are that pensions alone will add as much as 20% to payroll costs, yet will only be available to those who have contributed for 15 years, or more. While the law does allow foreign employees in China to reclaim their contributions as a lump sum upon repatriation, contributions made by employers are not refundable. (Employees from Hong Kong, Macau and Taiwan are defined as foreign employees for the purposes of this law.)

Few, if any, Hong Kong people will ever benefit from any of these provisions, yet all those working on the Mainland of China will be required to pay into these funds. Hong Kong residents working in China, almost without exception, have their own medical insurance. Further, their employment time is very unlikely to be sufficiently long enough to trigger pension benefits. Moreover, those who resign or otherwise leave their employment without finding new work would most likely return to Hong Kong, rather than collect unemployment benefits in other parts of China. Finally, Hong Kong people working in both China and Hong Kong may well be subject to Hong Kong Salaries Tax and MPF contributions. Thus, we believe the inclusion of Hong Kong residents working in China under the SIL is unfair.

According to the draft law, foreign employees from places with Totalization Agreements may be exempt from contributing to social insurance programmes in the Mainland of China, if they are already contributing to such programmes in their country of residence. Today, China has such agreements with Germany and the Republic of Korea.

We urge the government to raise with the Central People's Government the possibility of exempting Hong Kong residents working in other parts of China, and their employers, from these programmes and their associated costs. We would also ask, in light of several uncertainties, that the government request a phase-in period, and not apply the law retroactively.

Yours Sincerely,

Alex Fong
CEO