



China – Beijing fully adopts new methods to calculate disability fund contributions

As a direct result of the issuance of Circular 72 on September 8th 2015 Beijing is the first city to fully adopt a new method for calculating a company's contribution to the disabled persons' employment security fund. The 2015 rules became effective in Beijing on January 1st 2016 and are expected to eventually be expanded to and fully implemented in other parts of the country which are currently still using the 1995 rules or have implemented the new calculation method but established an upper limit on the disability fund calculation base.

The circular which was issued by China's Ministry of Finance (MOF), the State Administration of Taxation and the Disabled Persons Federation abolishes former methods for the levying, use and supervision of the disabled persons' employment security fund – which used to require companies with disabled employees to contribute fewer than the rate required by the local government to make fund contributions to the relevant local government (1995 Rules). While the requirement that the scale of hiring disabled persons shall be no less than 1.5% of the total staff is kept in place in the 2015 circular, a new method to calculate the contribution to the disabled persons' employment security fund is introduced – in order to determine how much a company should have to pay when it fails to hire a sufficient number of disabled persons.

Key implications of Circular 72

The two main implications of the issued 2015 circular are increased liabilities and enhanced supervision. The above mentioned new formula requires companies to calculate their annual contribution to the disability fund in Beijing as follows:

Payable amount = (number of total employees of the previous year x rate required by the local government (1.7% in Beijing) – number of hired disabled persons) x average annual salary of employees in a given company for the preceding year.

By introducing the new formula employers will no longer be able to use the average annual salary of employees in Beijing to determine their contribution to the disability funds but will have to look at the average annual salaries of the employees at their specific company instead.

This development is expected to lead to an increase of company liabilities. In fact company liabilities under the 2015 rules are estimated to be up to seven times higher than liabilities under the previous rules – as the average annual salary of employees in a particular company can be much higher than the city average.

Circular 72 announced that from January 1st 2016 onwards the disability fund is no longer collected by the China Disabled Persons Federation, but instead by the local tax bureau. The reasoning behind that being the fact that it will be much easier for the local tax bureaus to trace disability fund payments made by a company and match the salary information reported by the company for disability fund purposes with the data reported by the company for individual income tax purposes.



The circular explains that the disability fund payment can either be a single payment between 1-15 May or be divided into two instalments between 1-15 May and 1-15 September. However, it explicitly states that a late payment will result in interest of 0.05% per day, or approximately 18% per year, in addition to the potentially imposed penalties.

Conclusion

In conclusion, the 2015 rules are expected to have the biggest impact on employers in Beijing as their operating costs are likely to increase due to the higher contributions to the disability funds. Nevertheless, we would like to emphasize that all companies with operations throughout the whole of China should be aware of the potential change of local requirements for contributions to the disability fund, as the 2015 Rules officially applies throughout the entire country and is expected to be fully adopted by more local authorities over time.

For further information on the *PRC Disabled Persons Security Law* and the *Rules of Employment of Disabled Persons* please visit:
<http://www.cdpf.org.cn/english/Resources/lawsregulations/>