

China Tax Alert

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Measures for Hong Kong, Macao and Taiwan residents to participate in the PRC social security schemes

Regulation discussed in this issue:

- *“Interim Measures for Hong Kong, Macao and Taiwan Residents’ Participation in Social Security Schemes in Mainland China” (Order No. 41 of the Ministry of Human Resources and Social Security and National Healthcare Security Administration, hereinafter referred to as “Order No. 41”)*

On 29 November 2019, the Ministry of Human Resources and Social Security (MOHRSS) and the National Healthcare Security Administration (NHSA) jointly issued the “Interim Measures for Hong Kong, Macao and Taiwan Residents’ Participation in Social Security Schemes in Mainland China” (Order No. 41 of MOHRSS and NHSA, hereinafter referred to as “Order No. 41”), which takes effect from 1 January 2020.

Order No. 41 provides practical guidance for implementing the “Draft Interim Measures for Hong Kong, Macao and Taiwan Residents’ Participation in Social Security Schemes in Mainland China” which was released by MOHRSS for public consultation on 25 October 2018. Promulgation of Order No. 41 ensures to safeguard the rights and interest of those residents of Hong Kong, Macao and Taiwan who work, study and live in Mainland China.

Salient points

Order No. 41 has the following implications for residents of Hong Kong, Macao and Taiwan:

Application of participation

	Applicable for	Scope	Types of contribution	Mandatory (M)/Voluntary (V)
Employed individuals	General employees	Hong Kong, Macao and Taiwan residents legally employed by enterprises, public institutions, social organizations, individual business with employees and other employers legally registered in Mainland China	<ul style="list-style-type: none"> • Basic pension insurance • Basic medical insurance • Worker’s injury insurance; • Unemployment insurance • Maternity insurance 	M

	Individuals operating individual business	Hong Kong, Macao and Taiwan residents operating individual business legally in Mainland China	<ul style="list-style-type: none"> • Basic pension insurance • Basic medical insurance 	V
	Individuals under flexible employment arrangement	Hong Kong, Macao and Taiwan residents who are under flexible employment arrangement in Mainland China with a residence permit for Hong Kong, Macao and Taiwan residents		
Unemployed individuals	Unemployed residents	Unemployed Hong Kong, Macao and Taiwan residents living in Mainland China with a residence permit for Hong Kong, Macao and Taiwan residents	<ul style="list-style-type: none"> • Basic pension insurance (for residents in urban and rural areas) • Basic medical insurance (for residents in urban and rural areas) 	V
	College students	Residents of Hong Kong, Macao and Taiwan attending college in Mainland China	<ul style="list-style-type: none"> • Basic medical insurance (for residents in urban and rural areas) 	V

Hong Kong, Macao and Taiwan residents who continue to participate in social security schemes in Hong Kong, Macao and Taiwan may not be required to participate in the PRC basic pension or unemployment insurance schemes, subject to obtaining appropriate supporting to prove continuation of participation in the respective jurisdiction.

Process for participation

Order No. 41 provides the general social security contribution process as follows:

Contribution location	General employees	Location of employer
	Individuals operating individual business	Location where individual business is registered
	Individuals under flexible employment arrangement and unemployed residents	Location of residence
	College students	Location of college

Registration documents required	General employees	<ul style="list-style-type: none"> • Mainland travel permit for Hong Kong and Macao residents; • Residence permit for Hong Kong, Macao and Taiwan residents; • Labor contract/Letter of appointment; and • Other supporting documents where required
	Individuals operating individual business or under flexible employment arrangement	In accordance with the local requirements of the respective location where the individual is registered for PRC social security participation
Registration process	<ul style="list-style-type: none"> • Same as for Mainland China residents • Social security number and social security card will be issued upon completion of registration 	
Social security number	<ul style="list-style-type: none"> • Hong Kong, Macao and Taiwan residents who have obtained residence permit, social security number is the same as their personal identification number; • Hong Kong and Macao residents without a personal identification number, the social security authority or the social security card administrative authority will issue a social security number in accordance with the national requirements 	

Entitlements

Order No. 41 outlines participant's entitlement and contribution requirements as follows:

• Pension benefits

Same as Mainland China residents, Hong Kong, Macao and Taiwan residents who have made contributions towards the PRC pension insurance scheme for at least 15 years when they reach statutory retirement age¹, are entitled to benefits under the pension insurance scheme. Order No. 41 provides for supplementary contributions to be made by Hong Kong, Macao and Taiwan residents who do not satisfy the minimum 15-year contribution period, but wish to claim pension benefits in the following manner:

- Where a Hong Kong, Macau or Taiwan resident participating in the basic pension insurance scheme in the capacity of an employee has not made contributions for a minimum period of 15 years cumulatively when he/she reaches statutory retirement age, he/she may continue to make contributions for periodic contributions to satisfy the requirement on minimum contribution period.
- Where an individual started participation in the basic pension insurance scheme as an employee before implementation of the PRC Social Security Law (i.e., 1 July 2011), and his/her contribution period in aggregate is still less than 15 years after making extended contributions for a period of 5 years, he/she may make a one-off contribution to satisfy the requirement on minimum contribution period.
- Where a Hong Kong, Macau or Taiwan resident has made contributions to the basic pension insurance scheme as urban and rural residents for less than 15 years in aggregate when he/she reaches the age for entitlement to pension benefits, he/she may make periodic or one-off contributions to satisfy the requirement on minimum contribution period.

¹ According to the "Notice on Preventing and Correcting the Issues Concerning the Early Retirement of Employees against State Regulations" (Laoshebufa [1999] No. 8), the State's statutory retirement age for company employees is: 60 for males, 50 for female workers, and 55 for female cadres, except for special circumstances.

- **Medical insurance benefits**

- Where a Hong Kong, Macau or Taiwan resident participating in the basic medical insurance scheme as an employee has made contributions for the minimum contribution period as stipulated by the State when he/she reaches statutory retirement age, he/she shall not be required to make contributions after retirement, and may enjoy basic medical insurance benefits in accordance with the relevant regulations; where the contribution period stipulated by the State has not been attained, he/she may continue to make contributions up to the minimum contribution period. The minimum contribution period for retirees to enjoy the basic medical insurance benefits shall be subject to local provisions.
- Hong Kong, Macau and Taiwan residents participating in the basic medical insurance scheme as urban and rural residents shall make contributions in accordance with the same requirements relevant for residents in urban and rural areas and enjoy the same basic medical insurance benefits.

Furthermore, medical expenses incurred outside Mainland China shall not be covered by the basic medical insurance fund.

Departure from Mainland China

Where a Hong Kong, Macau or Taiwan resident leaves Mainland China before he/she meets the stipulated conditions for entitlement to pension benefits, he/she may choose to:

- Retain his/her individual social security account, and continues to make social security contributions if he/she returns to work or reside in Mainland China. The contribution period will be calculated cumulatively; or
- Apply to deregister from the PRC social security schemes, and receive lump-sum payout from contributions accumulated in the personal social security account.

Transfer of social security registration across pooling regions

Hong Kong, Macao and Taiwan residents who change employment location in Mainland China shall apply to transfer his/her social security registration to the relevant location where they will be employed. Order No. 41 specifies the methods for determining the location for claiming pension benefits for these individuals:

Upon reaching retirement age	Locations to claim pension payment
Where the cumulative contribution period is at least 10 years at the location where the individual is registered for basic pension insurance	Location where the individual is registered for basic pension insurance
Where the cumulative contribution period is less than 10 years at the location where the individual is registered for basic pension insurance	The last registered location where the contribution period reached 10 years
Where the cumulative contribution period is less than 10 years at each location of contribution	Location with the longest contribution period
Where there are two or more locations with the same length of contribution period	Last location with the longest contribution period

KPMG Observation

As early as 2005, the "Administrative Provisions on the Employment of Taiwan, Hong Kong and Macao Residents in Mainland China" had proposed measures to cover Taiwan, Hong Kong and Macao individuals who are employed in Mainland China under the PRC social security schemes. However, implementation varied across Mainland China. The "Interim Measures for Participation in Social Security Schemes of Foreigners Employed in China" issued in 2011 also did not explicitly impose the contribution requirements on Hong Kong, Macao or Taiwan individuals.

Promulgation of Order No. 41 could be regarded as further refinement and improvement to the PRC Social Security Law, as it clarifies the contribution requirements and benefits entitlement for Hong Kong, Macao and Taiwan residents who live, work and study in Mainland China. Successful implementation of Order No. 41 will ensure that Hong Kong, Macao and Taiwan residents shall enjoy the rights while fulfill the obligations on an equitable basis with residents of Mainland China. It also addresses the issue of double contribution by providing basis for contribution relief for Hong Kong, Macao and Taiwan residents and their employers when participation in the home local social security schemes continues.

We recommend that Companies employing Hong Kong, Macao and Taiwan residents and those who live in Mainland China pay attention to the following:

Companies employing Hong Kong, Macao and Taiwan Residents

- To date, some of the Hong Kong, Macao, and Taiwan residents and their employers have already been participating in the PRC social security contributions on voluntary basis. Companies which employ residents from these regions that have not started contributing for their employees who are from Hong Kong, Macao or Taiwan should proactively check with local social security bureaus on local guidelines with regards to implementation of Order No. 41, make relevant cost projections and evaluate potential financial impact, and where necessary, review and adjust the employee compensation and HR policies.

Hong Kong, Macao and Taiwan residents living in Mainland China

- The scope of relevant social security participants as stipulated in Order No. 41 has been extended from Hong Kong, Macau, and Taiwan residents employed in Mainland China as previously required under the "Administrative Provisions on the Employment of Taiwan, Hong Kong and Macao Residents in Mainland China" issued in 2005 to residents who are not employed in Mainland China. Hong Kong, Macao and Taiwan residents are reminded to take proactive steps to analyse the financial impact and benefits entitlement under the new regulations.

Meanwhile, we await the authorities to release further guidance on the following:

- Order No. 41 specifies that Hong Kong, Macao and Taiwan residents who have obtained residence permit shall use their personal identification number for PRC social security contribution purposes; and those without a personal identification number shall be issued a social security number. However, Order No. 41 does not specify the social security number requirement for Taiwan residents who do not have a residence permit. Whether Taiwan residents can participate in the PRC social security schemes only after a residence permit is obtained needs to be further confirmed.

- Order No. 41 stipulates that Hong Kong, Macao and Taiwan residents who already participate in the home local social security schemes may not be required to participate in the PRC basic pension or unemployment insurance schemes in Mainland China provided that certain proof issued by relevant authorities could be obtained. The specific requirements on the form of proof acceptable for claiming relief are unknown at this stage.

KPMG will closely follow the relevant policies for Hong Kong, Macao and Taiwan residents' participation in the PRC social security schemes, and proactively discuss policy implementations and practical cases with local social security authorities. We welcome organisations and Hong Kong, Macao and Taiwan residents to contact us for the latest information on contribution requirements.



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