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## **China Human Resources**

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## **Introduction of Chinese HR Market Situation for Foreign Companies**

For increasing the domestic demand and creating jobs in infrastructure projects during the global economic crisis, the Chinese government issued a CNY 4 trillion stimulus package. Following this effective measure, the Chinese economy came back strongly and grew by more than 8% in 2009, and is expected to grow at 10% in 2010. There are 10 industries included in this stimulation package: steel, automotive, shipbuilding, petrochemical, textile, light industrial, nonferrous metal, equipment manufacturing, electronic information and logistics. Apart from logistics, all nine industries are in manufacturing and are set to be an economic growth engine moving forward.

Considering the acceleration of the urbanization process, there will be 300 million people in the coming years that migrate to cities. As a result, investment in education, healthcare, and social security and insurance will be promoted. Additionally, after 2008/2009's headcount and hiring freeze, most MNCs have now loosened their recruitment policies, and a new round of recruitment with the aim of winning the "war for talents" will recommence. There were more than 6 million university graduates looking for jobs in 2010, and more and more talents

choose government agencies and State Owned Enterprises as their first preference in accepting job offers. This change will push foreign companies to promote their branding activities and adjust their recruitment plans.

In order to retain talents and skilled labourers, most companies improve their career management programs, and introduce bolder and more creative career paths and reward strategies to secure and satisfy their high performing employees. For making up for the lack of seasoned professionals and skilled labourers, companies start to increase salaries and invest further in training and development; moreover, they are considering fast tracking high-flyers that they have identified within their organizations. On the other hand, foreign companies also relocate foreign staff to deal with the cross-culture problems. However, due to the difficulties in communication which leads to a lack of understanding between managers and employees, these situations have significantly affected operational efficiency.

## **Differences between China and Foreign HR management Philosophy**

In the western Human Resources philosophy, it is assumed that people are all pursuing personal interests. Based on this, the management needs to recognize personal benefit

and clearly understand how to use regulations, methods, systems, etc to let “selfish people” work for the organization. On the other hand, in the Chinese culture, “self-cultivation” is stressed and self management is used in the organization. However, without the relevant legal framework and ethics standard to restrict behaviour, there is no way to talk about self-restrain. Although Chinese management is trying to approach and connect with western advanced management systems, some HR managers still are influenced by Chinese traditional management culture, and use interpersonal skills, including control, grasp and conjecture of people. Therefore, the foreign companies emphasize on mature management mode, through process and regulations to make the management more transparent and standardized, and make people feel hopeful, but not the “enlightenment” and “conjecture” which will make employees think all decisions of the company are made by the manager.

## Advantages of implementing foreign HR management in China

- Strategic management experiences
- Using systematic and standardized tools and techniques for market analysis
- Combining comments either from Chinese employees or foreign employees, effective combination between sense and sensibility
- Emphasize human resources
- Better communication between company in China and headquarter office

## Social Security

Mandatory benefits contributions by both employers and employees are stipulated by the China Labour Law and comprise a significant portion of the total compensation. The table below shows the social benefit schemes for Beijing and Shanghai residents:

| Social Benefits        | Beijing      |                  | Shanghai    |             |
|------------------------|--------------|------------------|-------------|-------------|
|                        | By Employer  | By Employee      | By Employer | By Employee |
| Pension insurance      | 20%          | 8%               | 22%         | 8%          |
| Unemployment insurance | 1%           | 0.2%             | 2%          | 1%          |
| Medical insurance      | 10%          | 2% + 3           | 12%         | 2%          |
| Workplace insurance    | 0.5%         | 0                | 0.5%        | 0           |
| Maternity insurance    | 0.8%         | 0                | 0.5%        | 0           |
| Public housing fund    | 12%          | 12%              | 7%          | 7%          |
| <b>Total</b>           | <b>44.3%</b> | <b>22.2% + 3</b> | <b>44%</b>  | <b>18%</b>  |
| Maximum cap            | RMB 11,178   |                  | RMB 10,698  |             |
| Minimum base           | RMB 2,236    |                  | RMB 2,140   |             |

In December 2009, the Ministry of Human Resources and Social Security and the Ministry of Finance jointly issued the “Measure for Transfer and Continuation of Basic Pension Insurance of Employees of Enterprises in Cities and Towns” allowing for the transfer of pensions within China. These Measures may facilitate relocation of Employees and contribute to greater flexibility on their part.

On 10 October 2009 Shanghai’s Human Resources and Social Security Bureau released a circular, allowing locally employed foreigners to participate in the urban-employees’ social security. Although Shanghai is not the first city to do so, many see this as a precursor for other cities. Though more and more foreigners are directly employed locally in China, some MNCs are still sending expatriates to China on secondment. However, due to the tendency in strengthening tax collection by the Chinese tax authorities, the secondment model causes several tax implications, including permanent establishment of the seconding company in China. This increases ambiguity of the tax position.

## **Labour Disputes**

In the **<<Regulations of the People’s Republic of China on Settlement of Labour Disputes in Enterprises>>** adopted by the State Council, there are some main issues that need to pointed out:

### **Chapter I General Provisions**

Article 1 The present Regulations are formulated to properly handle labour disputes in enterprises, protect the legitimate rights and interests of the enterprise and the workers and employees, maintain the order of normal production and management, develop sound labour relations, and promote the smooth progress of the reform and the implementation of the open policy.

Article 2 The Regulations are applicable to the following labour disputes between the enterprise and the workers and employees within the territory of the People’s Republic of China:

Disputes arising out of dismissal, discharge or lay-off of workers and employees by enterprises or resignation by workers and employees or leaving their jobs of their own volition,

Disputes concerning implementation of relevant State regulations on wages, insurance, welfare, training and labour protection,

Disputes regarding execution of the labour contract, Disputes that other laws and regulations stipulate should be handled with reference to these regulations.

Article 5 When there are more than three workers and employees in a labour dispute with the same grievances as one of the parties, the workers and employees involved shall nominate their representative to participate in the work of mediation and arbitration.

Article 6 In case of a labour dispute, the parties shall first find solution through negotiations.

## Chapter II Mediation in Enterprises

Article 11 The mediation committee shall observe the principle of voluntariness for both parties during mediation. Agreement reached through mediation shall be written in a mediation note for conscious execution by the two parties; if mediation fails, the case may be referred to the labour dispute arbitration committee by the parties for arbitration within a set time limit.

## Chapter III Arbitration

Article 12 Counties, cities and city districts shall set up labour dispute arbitration committees ( hereinafter referred to as arbitration committees ) .

Article 13 The arbitration committee shall be composed of the following persons:

- 1 Representatives of the department in charge of labour administration,

- 2 Representatives of the trade union council,

- 3 Representatives of the department of overall economic administration appointed by the government.

## Hot Issues in Foreign companies HR management in China

According to the publication of <<Human Capital World>>, there are several hot issues concerning labour regulations in foreign companies' HR management. Since more and more foreign companies are established in China, no matter if they are representative organizations or foreign-funded enterprises, there are more and more Chinese residents who work for these foreign companies. Therefore, while foreign investments are enjoying the rich benefits from the national resources, they have to respect Chinese law and regulations, especially the labour law, in order to avoid or reduce the labour capital conflict. Below is a brief interview from the publication of Ms. Ning, Director of the Legal department from Beijing Foreign Enterprise Human Resources Services Co., Ltd.(FESCO)

### Laws and regulations regarding HR

There are many laws regarding HR which foreign companies need to understand and follow, such as <<Labour Law>>, <<Trade Unions Law>>, << Population and Family Planning Law>>, <<Anti Unfair Competition Law>>, etc.

Depending on the different situation, foreign companies should pay sufficient attention to the nature of the relationship between organizations and individuals. When issues are related to individual rights and responsibilities, regulations involve the relevant regulations about employment– such as labour management, trade unions, family planning, individual tax, HR management etc.

According to the different employment perspectives, regulations are mainly related to three aspects. The first aspect is the labor relationship, such as establishing the main body of labor relations' requirements, employee identification verification, and the appropriate recruitment procedures; the second aspect of the labor contract is the performance, such as the establishment, modification, and dissolution of the labor contract; the third aspect is termination of labor relations.

The differences in legal responsibilities and rights of representative offices and foreign-funded enterprises:

There are differences between representative offices and foreign-funded enterprises in HR issues. Foreign representative offices are not independent legal entities. They do not have full civil status, therefore, they

Upon entering the WTO, China has had a continuously bright economic growth forecast. The China market currently offers many opportunities to foreign investors, and the numbers of foreign companies entering China has increased dramatically these past few years. During this period of intense business competition and significant

have to hire employees through outsourcing services organizations, such as FESCO. Although a foreign representative office is not an independent recruitment organization, the implementation of labor rights and responsibilities is performed between the organization and the employees. Therefore, when an organization changes from representative office into foreign-funded enterprise, it needs to pay attention to these differences.

There are not many foreign organizations that have professional HR legal consultants, mainly because they have a legal department. In fact, this consideration is not fully correct. Legal services staff may not fully understand the labour law and regulations, whereas human resources staffs fully understand. Therefore, it is necessary to have a HR legal consultant in a foreign company.

shortage of qualified, high skilled professionals, companies should have comprehensive understanding of Chinese business culture, they must be aware of current trends and conditions in the Chinese job market in order to be effective in their recruiting strategies.

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