

New Regulations on Administration of Housing Provident Fund in Shenzhen

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On November 24, 2010, the Shenzhen municipal government issued a Shenfu [2010] No. 176 entitled “Circular on Printing and Distributing the Tentative Measures of Shenzhen City on Administration of Housing Provident Fund (“HPF”)”, stating that all the State organs, public institutions, enterprises, private non-enterprise entities, social groups and their on-the-job workers and staff in Shenzhen should pay HPF monthly compulsively from Dec 2010. Later on December 16, the Shenzhen local tax bureau issued a circular on Transition Issues of the Individual Income Tax Reduction in the Public Housing Fund System, instructing the maximum amount of HPF which can be deductible for Individual Income Tax (“IIT”) purpose.

The key points of these two circulars are as follows:

- All entities in Shenzhen, including foreign invested companies, foreign companies (“collectively referred to as FIEs”), will be subject to the HPF effective from 20th December 2010;
- All registered employees, including Shenzhen resident employees and non-Shenzhen resident employees, will have their own special HPF account;
- There is limitation for HPF to be deductible from Individual Income Tax (“IIT”);
- These Measures shall prevail in case of any discrepancy between relevant provisions of Shenzhen city on housing provident fund promulgated prior to these Measures.

Detailed measures on the new regulations of HPF

The base amount of the HPF The average monthly income of an employee for the previous year shall be the base amount for calculating this employee's HPF. The base amount of the HPF shall not be lower than the minimum monthly salary standard for the previous year which has been published by the municipal department of human resources and social security, and shall not be more than 5 times of the average monthly salary for the previous year which has been published by the municipal statistics department.

The rate of the HPF The part paid by the entity or employee shall not be lower than 5 percent of the base amount, and shall not be higher than 20 percent of the base amount. The part paid by the entity and the employee shall be the same and shall be determined by the entity, and the same entity may determine only one ratio standard.

The calculation of the HPF The monthly payment by an individual employee shall be the base amount of this employee multiplying the ratio of the part paid by this employee. The monthly payment by an entity shall be the base amount of an employee multiplying the ratio of the part paid by this entity. The monthly payment by an individual employee shall be equivalent to the monthly payment by the entity in which this employee works.

HPF payable by an individual employee = The base amount of the HPF x the rate of the HPF
HPF payable by the entity = HPF payable by an individual employee

Entities may adjust the ratios once in a year. The base amounts shall be adjusted by relevant entities once in a year in line with relevant provisions of the Housing Provident Fund Center and on the basis of change in employees' salaries.

Implication for employers On one hand, the new regulations of HPF in Shenzhen obviously increase the labor cost of FIEs; on the other hand, HPF will be a new measure for FIEs to increase the employees' welfares, which can enhance the competitiveness of FIEs in Shenzhen with FIEs in other cities in China, since HPF system has been implemented for a long time in most part of other cities in China.

Implication for employees The housing fund deduction in the IIT taxable income of employees will be different as before. Before the tentative measure, the Shenzhen municipal government did not require the entities to pay HPF for the employees compulsively. In the case that the entities did not pay HPF for the staff, the housing fund deduction in the IIT taxable income equaled the gross salary of this employee multiplying by 13%. But now the housing fund deduction in the IIT taxable income will be less, which equals the HPF an employee pays every month and cannot exceed the smaller amount between RMB1402 and 12% of the monthly salary of the employee. Therefore, IIT born by employees will be higher than before.