



Legal News

1. 2019 Average Monthly Salary in Major Cities Released

(1) Ceiling amount of paying severance payment

According to article 47 of PRC Labor Contract Law, the employer shall pay the employee severance payment during the termination of employment contract based on the number of years that he has worked at the rate of one month's salary for each full year worked. However, a ceiling amount is introduced for calculating the monthly salary of the employee, that is, if the employee's average monthly salary is more than 3 times the average monthly salary in the location of city in the previous year, the amount shall be limited to the latter. That is why it is important to check each year on the average monthly salary of the city.

We summarize the following table of the 2019 average monthly salary of some major cities and corresponding ceiling amount for your reference¹:

	2019 average monthly salary	Ceiling amount of paying severance	Publication date
Beijing	RMB 11715	RMB 35145	July 2, 2020
Shanghai	RMB 9580	RMB 28740	June 30, 2020
Shenzhen	RMB 10646	RMB 31938	June 29, 2020
Guangzhou	RMB 10292	RMB 30876	June 28, 2020
Tianjin	RMB 6323	RMB 18969	July 2, 2020

(2) Ceiling amount of maximum social insurance contribution

The average monthly salary is also important for calculating the ceiling amount of social insurance contributions. Employers and employees cannot make social insurance contributions higher than the ceiling amount, even if in reality the employee is paid far more than that amount.

Generally, the contribution base of the social insurance is capped at 3 times of the average salary of the city as well. For example, this year in Tianjin, the ceiling amount of paying severance and ceiling amount for social insurance contribution base are the same.

However, Beijing, Shanghai, Shenzhen and Guangzhou implemented special rules to decrease the ceiling amount of social security contribution base in order to reduce the burden on enterprises during the COVID-19 epidemic. Taking pension fund base for example:

In Beijing, 2019 average monthly salary for employees working in legal entities is RMB 11715 yuan/month, and this is the amount used for calculating ceiling amount of paying severance payment. However, for calculating the base of pension fund, HR Bureau stipulated that RMB 8847 yuan/month² is applicable, which is the monthly average salary for employees working in all kinds of units (not only for legal entities).

In Shanghai, the social security contribution base will be gradually increased under a **three-year transition plan**. It means that 2019 average monthly salary RMB 9580 yuan/month shall not be used to calculate the 2020 pension fund base immediately. Under the three-year transition plan, as of July 1, 2020, RMB 9339 yuan/month³ was used instead.

In Shenzhen and Guangzhou, the social security contribution base was not calculated according to the average monthly salary in the municipal level in Shenzhen or Guangzhou but according to the average monthly salary of **provincial level in Guangdong Province**, which is RMB 6756 yuan/month⁴.

We summarize the following table for your reference:

	Monthly salary for calculating pension fund	Ceiling amount of pension fund base	Publication date
Beijing	RMB 8847	RMB 26541	July 17, 2020
Shanghai	RMB 9339	RMB 28017	June 30, 2020
Shenzhen	RMB 6756	RMB 20268	July 14, 2020
Guangzhou	RMB 6756	RMB 20268	July 17, 2020
Tianjin	RMB 6323	RMB 18969	July 2, 2020

2. Draft 2020 Foreign Investment Encouraged Catalogue Released for Public Comments

On July 31, 2020, the National Development and Reform Commission and the Ministry of Commerce jointly issued the draft Catalogue of Encouraged Industries for Foreign Investment (2020 edition) for soliciting public comments till August 30, 2020 (the "Draft Catalogue").

The Draft Catalogue lists industries where foreign investment is welcome and aims to replace the 2019 edition. Specifically, the Draft Catalogue keeps consisting of two sub-catalogues mentioned in the 2019 edition, one of which is the national list applies to the whole country, and the other one of which is applicable to 22 provinces in China's central, western and northeastern regions⁵. The major change of number of items is as follows:

Implementation date	Name of Catalogue	Number of Items
July 30, 2019	2019 National Encouraged Catalogue	415
	2019 Encouraged Catalogue in 22 provinces	693
Not clear yet	Draft 2020 National Encouraged catalogue	471 (added 56 items and revised 40 items)
	Draft 2020 Encouraged Catalogue in 22 provinces	762 (added 69 items and revised 36 items)

In the Draft Catalogue, sectors such as manufacturing of high-end products, research and development and so forth are especially welcome foreign investment.

We highlighted few of the added items for your attention:

Key Industries added to 2020 Draft Catalogue	
Industry category	Encouraged areas of investment
Special equipment manufacturing	Manufacturing of artificial intelligence assisted medical equipment
	Manufacturing of high-end surgical instruments, physiotherapy and rehabilitation equipment, wearable intelligent health equipment
Food manufacturing	Development and production of plant protein imitation meat food
Automobile manufacturing	Hardware manufacturing related to L3 / L4 / L5 autonomous driving: lidar, millimeter wave radar
	Manufacturing of charging piles and energy storage charging piles
Computer, communication and other electronics manufacturing	Manufacturing of intelligent consumer equipment such as wearable intelligent devices, intelligent unmanned aerial vehicle and customer service robots
	Manufacturing of smart home platform system and equipment
Education	Non-academic language training institutions (excluding preschool education, compulsory education and senior high school education)

It is noteworthy that even for the encouraged catalogue, under certain industries, there may still be a set of examination and approval to be obtained by the foreign investors. For certain encouraged industries, if the domestic investors also need to obtain examination and approval from relevant governmental authorities, then the foreign investors shall be subject to the same examination and approvals.

Although not directly mentioned in the Draft Catalogue, but it is reported in many news that foreign investors engaging in the encouraged industries might be eligible for preferential tax treatment (tariff exemption for importing equipment, or preferential CIT rate) as well as preferential land prices and so forth. Before the investment, it is advisory for the foreigner investor to conduct a detailed updated check with its local tax advisor.

(<http://www.mofcom.gov.cn/article/au/av/ab/202007/20200702988205.shtml>)

Asiallians will keep a close eye on the above mentioned legal news.

Should you need more details, please contact us at asiallians@asiallians.com. As always, Asiallians remains at your service and our teams are currently mobilized in all our offices in China, Hong Kong and Taipei.

1. By calling Human resources and Social Security Bureau ("HR Bureau") in different cities, rules varied from city to city.

Beijing HR Bureau released an official notice on July 2, 2020, stipulating that ceiling amount of paying severance payment shall be based on the **average monthly salary of employees working in legal entities** in Beijing in 2019, which is RMB 11715 yuan/month.

See: http://rsj.beijing.gov.cn/xxgk/tzgg/202007/t20200702_1937157.html

http://tjj.beijing.gov.cn/tjsj_31433/tjbmfbjh/ndtjzl_31437/2020ndtjzl_31678/202003/t20200325_1735601.html

Shanghai HR Bureau did not release an official notice to define the ceiling amount of paying severance payment. However, in practice, the ceiling amount shall be based on the number of **average monthly salary of urban employees** in Shanghai, which is RMB 9580 yuan/month released by Shanghai Statistics bureau.

See: <http://tjj.sh.gov.cn/tjxw/20200629/fc54a4124e7040098921b6fc5680e1e.html>

HR Bureau in Shenzhen and Guangzhou did not release an official notice neither. In practice, the ceiling amount shall be based on the **number of average monthly salary of employees working in non-private sector**, which are RMB 10646 yuan/month in Shenzhen and RMB 10292 yuan/month in Guangzhou respectively .

Shenzhen: http://tjj.sz.gov.cn/zwgk/zfxgkml/tjsj/tjgb/content/post_7826346.html

Guangzhou: http://tjj.gz.gov.cn/tjgb/qtgb/content/post_6433170.html

Tianjin's monthly average salary of all employees is fixed at RMB 6323.

http://hrss.tj.gov.cn/ecdomain/framework/tj/mciakmldehicbbodidn1mldmhkighpdn/lhglbknkgjkbboeipinpopkpbhedemg.do?jsfloat=1&disp_template=ccnjmfhfhefpibbdjemcncephdmpjllhn&fileid=20200702165729298&moduleIDPage=&lhglbknkgjkbboeipinpopkpbhedemg&siteIDPage=tj&infoChecked=0

2. Beijing http://rsj.beijing.gov.cn/csbiz/improtant/news/202007/t20200717_1951113.html

3. Shanghai: <https://mp.weixin.qq.com/s/4NPeBT7cJTOC1WvJroUbiw>

4. Guangzhou and Shenzhen <http://hrss.sz.gov.cn/attachment/0/687/687493/7847466.pdf>

5. 22 provinces include the following: Shaanxi, Inner Mongolia, Liaoning, Jilin, Heilongjiang, Anhui, Jiangxi, Henan, Hubei, Hunan, Guangxi, Hainan, Chongqing, Sichuan, Xinjiang, Xizang, Ningxia, Guizhou, Yunnan, Xizang, Shanxi, Gansu.

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