

海南省残疾人就业保障金征收政策解答

Question and Answers for Policies Related to the Hainan Provincial Disabled Employment Security Fund

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一、什么是残疾人就业保障金？

I. What is the disabled employment security fund?

残疾人就业保障金(以下简称“保障金”)是为保障残疾人权益,由未按规定安排残疾人就业的机关、团体、企业、事业单位和民办非企业单位(以下简称“用人单位”)缴纳的政府性基金。

Disabled employment security funds (hereinafter referred to as the “Security Fund”) exist in order to protect the rights of disabled persons; they are government-managed funds paid for by government organs, groups, enterprises, public institutions and private non-enterprise units (hereinafter referred to as “Employers”) who do not provide jobs for the disabled.

二、用人单位为什么要缴纳保障金？

II. why should employers pay in to the Security Fund?

残疾人是需要全社会关心和帮助的特殊困难群体,残疾人就业是保障残疾人平等参与社会生活、共享社会物质文化成果的基础。法律法规规定用人单位有责任和义务按一定比例安排残疾人就业,这是承担社会责任和义务的体现,倘若用人单位没有按规定比例安排残疾人就业,就须缴纳保障金。缴纳保障金不是目的,而是一种方式,目的是引导、督促用人单位安排残疾人就业,更好地保障残疾人权益。

Disabled persons are a special group of people requiring the additional care and assistance of the whole of society. Employment of the disabled is one of the foundational measures which ensures that the disabled can take part in social activities and equally share society’s material and cultural achievements. In accordance with both the law and social responsibility, employers are liable for and obligated to provide jobs for the disabled in line with their abilities. In case employers do not fulfill this obligation to provide jobs for the disabled as specified, they have to pay into the Security Fund. So as to better protect the rights of the disabled, payment of monies into the Security Fund is a way to encourage employers to provide jobs for the disabled.

三、保障金的征收范围包括哪些？

III. What does the Security Fund cover?

本省行政区域内的机关、团体、企业、事业单位和民办非企业单位用人单位,安排残疾人就业的比例不得低于本单位在职职工总数的1.5%,未按规定比例安排残疾人就业或安排残疾人就业未达到规定比例的应缴纳保障金。

The proportion of jobs provided for the disabled by government organs, groups, enterprises, public institutions, and private non-enterprise units operating within the geographic area administered by Hainan Province shall be no less than 1.5% of the work unit’s total number of in-service employees. In case jobs are not provided for the disabled according to the specified proportion or the proportion of disabled workers does not reach the specified proportion, then money must be paid into the Security Funds.

注意事项:

Important Notes:

(一)民办非企业单位是指企业事业单位、社会团体和其他社会力量以及公民个人利用非国有资产举办的,从事非营利性社会服务活动的社会组织。《民办非企业单位登记管理暂行条例》(《中华人民共和国国务院令 第251号》

(i) Per the Provisional Regulations on Registration and Management of Private Non-enterprise Work Units (Decree of the State Council No. 251, People’s Republic of China), private non-enterprise work units are social organizations which engage in non-profit social service activities and were established by enterprises, public institutions, social organs, other social forces or citizens with non-state assets.

(二)基层群众性自治组织(如村民委员会、居民委员会)、农民专业合作社、农民专业合作联社以及个体经营户等不属于征收范围。

(ii) Grass roots level self-governing mass organizations (i.e. Village or Neighborhood Committees), Farm Co-ops, Farm Co-op Associations, and “getihu” type small businesses are exempted from this category.

四、哪些残疾人计入用人单位实际安排的残疾人就业人数？

IV. What sorts of disabled people count towards employers’ quota?

用人单位持有《中华人民共和国残疾人证》残疾人或持有《中华人民共和国残疾军人证》(1至8级)的人员录用为在编人员或依法与就业年龄段内的残疾人签订1年以上(含1年)劳动合同(服务协议),且实际支付的工资不低于当地最低工资标准,足额缴纳社会保险费,并为其安排适当的工种和岗位的,方可计入用人单位所安排的残疾人就业人数。已离休、退休、退职、下岗的残疾人不计入单位安排残疾人就业的比例。

In accordance with the law, employers who recruit those persons with a PRC Disability Certificate or a PRC Disabled Soldiers’ Certificate (Grades 1–8 inclusive) as permanent employees or who sign a one year or greater length employment contract (service agreement) with an employment aged disabled person, who pay an actual wage which is not less than the minimum local wage standard, who pay full social security expenses for their disabled employees, and who provide disability appropriate types of work and job positions for their disabled employees may count their disabled employees towards their quota. It should be noted that any disabled employee who has left their position, retired, quit or been laid off shall not be counted towards the employer’s quota for disabled employees.

用人单位安排1名持有《中华人民共和国残疾人证》(1至2级)或《中华人民共和国残疾军人证》(1至3级)的人员就业的,按照安排2名残疾人就业计算。

In the event that an employer provides a job for a disabled person who has a Grade 1 or Grade 2 PRC Disability Certificate or who has a Grade 1, 2 or 3 PRC Disabled Soldiers’ Certificate, then the employment of this person shall count towards the quota as two disabled people.

用人单位跨地区招用残疾人的,应当计入所安排的残疾人就业人数。

In the event that an employer recruits disabled staff from other geographic regions, the disabled staff from other regions are still counted towards the employer’s total number of actually disabled employees.

五、如何计算保障金？

V. How is the Security Fund payment calculated?

保障金按上年用人单位安排残疾人

就业未达到规定比例的差额人数和本单位在职职工年平均工资之积计算缴纳。计算公式如下:

The amount of money due to be paid into the Security Fund shall be calculated on the basis of the difference between the number of disabled employees whom the employer should provide jobs for and the number of disabled employees whom the employer actually provided jobs for over the past year multiplied by the average annual wage of the work unit’s other employees. The computational formula is as follows:

保障金年缴纳额=(上年用人单位实际在职职工总人数×1.5%–上年用人单位实际安排的残疾人就业人数)×上年用人单位在职职工年平均工资。

Where “E” is the total number of employees employed in the previous year and “W” is the average annual wage of all employees employed in the previous year, the Security Fund payment due is: Ex1.5%×W.

注意事项:用人单位安排残疾人就业未通过审核的,税务部门按未安排残疾人就业计征。

Important Notes: In the event that an employer provides jobs for the disabled but has not had those disabled persons employment verified, these persons shall not count towards the employer’s quota and the Tax Department shall collect monies for the Security Fund as if those employees were not disabled.

六、用人单位在职职工包括哪些人员？

VI. What counts as an employer’s “in-service employee”?

用人单位在职职工,是指用人单位在编人员或依法与用人单位签订1年以上(含1年)劳动合同(服务协议)的人员。季节性(含临时性)用工应当折算为年平均人数,依法以劳务派遣用工的,由派遣单位和接受单位协商将残疾人数计入其中一方的实际安排残疾人就业人数和在职职工人数,不得重复计算。

In accordance with the law, the term “inservice employee” refers to an employer’s permanent employees or personnel that have already signed an employment contract (service agreement) with an employer for a term of one or more years. Seasonal (including temporary) employees shall only be counted according to the conversion formula listed below. When an employer legally engages in labor dispatch, the dispatching agency and the receiver shall consult with each other to determine which party may have the right to count which employees as in-service employees and neither disabled nor non-disabled employees may be double-counted.

七、季节性用工的年平均人数如何折算？

VII. What is the formula for converting seasonal employees to in-service employees?

季节性用工应当折算成全年用工(含临时性)。折算公式为:

Seasonal and temporary employees shall be converted into in-service employees according to the following formula:

季节性用工折算年平均用工人数=季节性用工人数×季节性用工月数/12。

Where “S” is the total number of seasonal employees and “M” is the total number of months worked by seasonal employees, the total number of inservice employees is: (S×M) / 12.

八、上年实际安排残疾人就业人数如何计算？

VIII. What does “actual disabled employees” mean and how is it calculated?

上年用人单位实际安排残疾人就业人数,是指上年本单位实际安排残疾人就业的实际人数。

The term “actual disabled employees” refers to the number of disabled people whom the employer actually provided jobs with in the previous year.

用人单位安排残疾人就业未达到规定比例的差额人数,以公式计算结果为准,可以不是整数。

The difference between the number of actual disabled employees and the specified proportion shall be subject to the result calculated according to the formula and need not be an integer.

九、如何计算上年用人单位实际在职职工总人数？

IX. How is an employer’s total number of in-service employees over the past year calculated?

用人单位实际在职职工总人数=用人单位在职职工人数(以劳务派遣方式用人的,用人单位与派遣单位协商一致后将人数计入其中一方)+季节性用工年平均人数

The total number of inservice employees effectively refers to the actual number of employees + the average annual number of seasonal employees. (In the event of legal labor dispatch agreements, the number of dispatched employees may be included in this count after consultation between the employer and the dispatching agency.)

十、上年用人单位在职职工年平均工资如何计算？

X. How is the average annual wage of in-service employees over the past year calculated?

上年用人单位在职职工年平均工资,按用人单位上年在职职工工资总额除以上年在职职工人数计算。

The average annual wage of in-service employees shall be calculated based on the total amount of wages which the employer paid in the previous year divided by the number of employees employed over the previous year.

十一、如何计算用人单位在职职工工资总额？

XI. How is the total wage of in-service employees calculated?

计征保障金的在职职工工资总额是指用人单位实际发放给员工的工资薪金总和,不包括单位的职工福利费、职工教育经费、工会经费、“五险一金”和公车改革补贴。

For the purposes of the Security Fund, the total wage of inservice employees refers to the total wage actually paid by employers to employees excluding welfare expenses, personnel education funds, labor union expenditures, the five social insurances, the housing fund, and public vehicle subsidies.

职工福利费按《财政部关于企业加强职工福利费财务管理的通知》(财企〔2009〕242号)规定执行。

Employees’ welfare expenses shall be paid in accordance with the Ministry of Finance of the People’s Republic of China Notice on Strengthening the Financial Management of Welfare Expenses of Employees by Enterprises (CQ [2009] No. 242).

十二、非法人独立核算和一套人马、多个牌子的用人单位如何合并申报缴纳保障金？

XII. How should unincorporated organizations conducting independent accounting or employers with multiple brands make a joint declaration for the Security Fund?

非法人独立核算和一套人马、多个牌子的用人单位申请在总公司所在地进行合并申报缴纳,分公司凭着总公司缴纳保障金的清单进行零申报,相关资料留存备查。

Both unincorporated organizations conducting independent accounting and employers with multiple brands can apply for joint declaration when it comes to paying the Security Fund and may pay in the place where their Headquarters is located. Branch companies can make a declaration of zero and preserve the relevant data for reference on the basis of the list of the monies which their Headquarters paid towards the Security Fund.

十三、用人单位注销时需要注意哪些事项？

XIII. What needs to be focused on when an employer’s business license is canceled?

(一)用人单位当年注册成立当年注销的,不需申报缴纳保障金。

(I) In the event that an employer’s business license is canceled the same year as the year which the company is registered, then the employer does not need to either make a declaration for the Security Fund or pay money towards it.

(二)除上述情况外,用人单位注销时,应按规定申报缴纳保障金。

(II) Other than in the aforementioned circumstance, any employer whose business license has been canceled must still make a declaration for the Security Fund and pay money towards it.

十四、不按规定时间缴纳保障金是否加收滞纳金？

XIV. If money for the Security Fund has not been paid on time, are there overdue fines for late payment?

用人单位未按规定缴纳保障金的,应当自欠缴之日起,按日加收5‰滞纳金,滞纳金不超出保障金应缴金额。

In the event that employers do not pay money towards the Security Funds as specified, then a fine of 5‰ shall be compounded daily per day of arrears. The total amount of the fine shall not exceed the total amount due to be paid to the Security Fund.

十五、如何更正少报少缴保障金？

XV. How to correct declaration errors for the Security Fund leading to either under-reporting or underpayment?

少报少缴保障金的用人单位到所在地办税服务厅做申报更正。

In the event that money due to be paid to the Security Funds is either under-reported or underpaid, employers shall correct their declaration at their local tax service hall.

十六、2011–2015年残联部门核定应缴未缴保障金如何缴纳？

XVII. How should an employer go about paying any outstanding Security Fund payments which the Disabled Persons’ Federation audit has discovered for the period between 2011 and 2015?

用人单位对2011–2015年残联部门核定在金税三期税收管理系统中应缴未缴保障金数额无异议的,应向所在地税务部门缴款。

In the event that an employer has no objection to the amount of outstanding monies owed to the Security Fund per the audit by the

Disabled Persons’ Federation of the period from 2011 to 2015 in the CTAIS III tax administration system, they shall pay the Security Fund money to the local tax department.

注意事项:用人单位对核定应缴未缴保障金数额存在异议的,应向所在地残联部门申请重新核定。海口地区实行省市分级核定,省属用人单位向所在地省残联部门申请重新核定;市属用人单位向海口市残联部门申请重新核定。

Important Notes: In case the amount of outstanding monies due to be paid to the Security Fund is in dispute, the employer shall apply to the local department of the Disabled Persons’ Federation for re-audit. Per the hierarchy of the Disabled Persons’ Federation, provincial level employers shall apply for a recheck to the Provincial Disabled Persons’ Federation and municipal level employers shall apply for a re-check to the Municipal Disabled Persons’ Federation.

十七、保障金有哪些优惠政策？

XVIII. What are the Security Fund’s preferential policies?

(一)用人单位按规定比例满额或超额安排残疾人就业人数的,免征保障金。

(I) In the event that the number of disabled people whom the employer provides jobs for reaches or exceeds the employer’s specified quota, then the employer shall be exempted from paying money towards the Security Fund.

(二)自2017年4月1日起,自工商注册登记之日起3年内,在职职工总数30人(含)以下的企业,免征保障金。

(II) Beginning from April 1, 2017, all enterprises and businesses with less than 30 inservice employees shall enjoy a three-year exemption of Security Fund payment starting from the date of their business registration.

(三)自2018年4月1日起,用人单位在职职工平均工资未超过当地社会平均工资2倍(含)的,按用人单位在职职工年平均工资计征残疾人就业保障金;超过当地社会平均工资2倍的,按当地社会平均工资2倍计征保障金。

(III) In the event that the average wage of the employer’s inservice employees is no more than twice the local average wage (inclusive), the amount of money to be collected for the Security Fund shall be based on the average annual wage of inservice employees. If the average wage is more than twice the local average wage then the amount of money to be collected for the Security Fund shall be based on twice the average local wage.

(四)自2020年1月1日至2022年12月31日,在职职工人数在30人(含)以下的企业,暂免征保障金。

(IV) Beginning from January 1, 2020, and continuing to December 31, 2022, all enterprises with no more than 30 inservice employees shall be temporarily exempted from paying money towards the Security Fund.

(五)用人单位实际安排残疾人就业比例低于应安排残疾人就业比例的,实行分档征收政策,在2020年1月1日至2022年12月31日期间,对于实际安排残疾人就业比例达到1%(含)以上但低于1.5%的,按“本期应纳费额”的50%计算减免费额;对于实际安排残疾人就业比例低于1%的(含实际安排残疾人就业比例为零),按“本期应纳费额”的10%计算减免费额。

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