

Social Insurance Consulting Firm EOS News Letter – November, 2011 –

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Updated News

[The Survey of Trends in Business Activities of Foreign Affiliates]

Ministry of Economy, Trade and Industry announced on Sep 30 2011 the outline of the Survey of Trends in Business Activities of Foreign Affiliates during fiscal 2010 (2010. 3 actual). This survey shows that the number of newly foreign-capitalized companies decreased, while that of companies of dissolution, withdrawals, low foreign capital ratio increased significantly compared with the previous survey.

The following are the points of the trends among foreign affiliates in Japan in FY2009.

The percentage of Asian affiliates declined for the first time in five years.

Asian affiliated accounted for 20.8% of the total, down 0.2% points from the previous fiscal year. In the meantime, U.S. affiliates accounted for 30.2%, down 0.5% points (id.). Conversely, European affiliates showed an increase of 0.7% points, accounting for 43.2%.

The number of new entries decreased, while the number of withdrawals, etc., increased significantly.

The number of companies that were newly foreign-capitalized decreased from the previous survey, from 83 to 82. On the contrary, the number of companies that dissolved, withdrew, or reduced their foreign capital ratio increased by 31.2% from the previous survey, from 125 to 164.

The number of regular employees increased, mainly in the information and communications industry.

The percentage of part-time workers increased.

The number of regular employees increased 9.6% from the previous fiscal year to 480,000. The manufacturing sector showed an increase of 1.5% (id.) to 198,000, and the non-manufacturing sector showed an increase of 16.0% (id.) to 282,000. Significantly, the number of regular employees in the information and communications industry increased by 66.7% from the previous fiscal year to 40,000.

The percentage of part-time workers increased 4.5% points from the previous fiscal year to 28.0%.

Regional headquarters in the Asia and Oceania regions were the largest in number in Singapore, and the lowest in number in Japan, among major countries.

Regional headquarters in the Asia and Oceania regions were largest in number in Singapore, at 307, followed by China, at 300, and Hong Kong, at 251. Japan had 75 regional headquarters.

*The number of regional headquarters includes the finance and insurance industry and the real estate industry.

Sales decreased mainly in the wholesale trade industry, and capital investment also decreased significantly.

Sales were 32.8 trillion yen, down 12.3% from the previous fiscal year. Both the manufacturing and non-manufacturing sectors showed decreases.

Capital investment was 575.0 billion yen, down 43.2% from the previous fiscal year. The manufacturing and non-manufacturing sectors saw sharp declines of 43.8% (id.) for the second consecutive year, respectively.

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[The Survey of Employment Situations of elderly people]

Ministry of Health, Labor and Welfare announced on Oct 21 2011 the result of the Survey of Employment Situations of elderly people (as of June 1).

The main points of the results of the survey

Implementation status of the measurements of ensuring employment of the elderly people

The ratio of the companies which already implemented the measurements of ensuring employment of the elderly people is 95.7% (0.9 points down compared with the previous year).

The situations of the companies where all of the people are able to work over 65 years.

- (1) The ratio of the companies where all of the people are able to work over 65 years is 47.9%, up 1.7 points (id).
- (2) The ratio of the companies where all of the people are able to work up to 70 years is 17.6%, up 0.5 points (id).

The status of the continuous employment of the people of the retirement age.

Out of 430 thousand 4,831 people who retired from the work within the past one year, 320 thousand 71 people have been continuously employed (73.6%), 100 thousand 7,137 didn't wish the continuous employment (24.6%) and 7,623 left their companies due to not applicable to the required standards (1.8%).

Labor Acts

The previous article explained Labor Standards Act and this time covers the outline of Labor Union Act.

Labor Union Act was enacted in 1945, which guarantees the rights to organize and the right of collective bargaining to improve the status of workers.

The rights to organize, the right of collective bargaining and the right of collective actions called the three rights of labor, which are guaranteed in the provision of Labor Union Act, were added to Article 28 of the Constitution of Japan as the rights under the Constitution the following year.

The labor union rapidly expanded as a result of enactment of Labor Union Act and the number of the union reached 23,000 and that of people did 5,690 thousand the next year of the enactment.

The scale of the union fluctuated following the social and political upheaval such as the drastic amendment in 1949 and rapid economic growth, and the number of people reached the top to 12,700 thousand in 1994 and thereafter continues to decline.

Employers should pay special attention to their response to collective bargaining. Employers have obligation of sincere bargaining with their workers and are not able to refuse collective bargaining requested by labor union without justifiable reason. However, there is no obligation to agree requirements of the unions and it's permissible if negotiation did not come to settlement.

When collective bargaining is refused without justifiable reason, it is deemed to be an unfair labor act and there is possibility that employers are ordered to accept collective bargaining by the Labor Relations Commission, or the labor union may sue the employers for damage of refusal of collective bargaining.

It is often argued whether the contractors are considered as workers possessing labor rights. The Supreme Court lately acknowledged that "workers who are self-employed traders under contracts with the housing equipment maker" and "musicians under a contract with the Theater Foundation" also "have the right to negotiate collectively with their employers".

Contractors may have three labor rights which had not been acknowledged by the top court ruling since employment agreement was not entered between management and workers, which is the point the employers should consider.

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Tips for Employment Management at Foreign Firms

Expats working in Japan have to enter Japanese social insurance. Health insurance can be used in going to hospital for injury or sickness and workmen's accident compensation insurance used for receiving medical treatment and compensation for absent from work for injury or sickness during work. However, even expats are obliged to enter employment insurance while in Japan unless it is acknowledged they are eligible for that in other countries. Nevertheless, it is not until they are unemployed that they are entitled to such benefits, accordingly resulting in no premium at the end of the term.

As for welfare pension insurance, expats can claim the lump-sum withdrawal payment after leaving Japan to prevent no benefits. This is possible only when they claim against Japanese authorities within two years after leaving Japan, for which complicated procedures are carried out.

Contribution rates of employment insurance are 0.6% for employees and 0.95% for company, while those of welfare pension insurance are much higher 8.206% for both. Thus it would be unfair that no payment of premium is made at the end of the term.

Social security agreement is reached among each country (currently implemented with 12 countries) with the following two purposes.

1. To avoid dual burden of contribution payments by arranging workers' compulsory coverage between two countries.
2. To enable workers to totalize their periods of both Japan and the other country to fill the gap for benefits under the system of the agreement country so that they may qualify for benefits.

The next issue will be out in February, 2012.

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