

Legal Update Week 3 - 4 (17 – 31 January 2022)

Thailand Legal News

Thai RD issues handbook for cryptocurrency tax collection (28 January 2022)

- Following a public outcry over the initial proposed plan to impose a 15% withholding tax and to tax all profit transactions without considering any losses from the trade, the Revenue Department (RD) issued (revised) a handbook for PIT on cryptocurrencies and digital tokens on 31 January 2022, in order to establish a clear guideline for tax payment. The following are key features in the handbook:
 - Losses can be offset against capital gains in the same tax year for determining assessable income (profit);
 - If the payee is unidentifiable and the amount to be withheld is unknown, no tax needs to be withheld;
 - VAT exemption is applicable as these are exchanges under the supervision of the Thai SEC, or digital asset transactions under the Bank of Thailand.

Any person who has profited from cryptocurrency and digital tokens must file a PIT Return for Taxpayers (P.N.D. 90 or 91) by 31 March of the following year. The persons under the following 5 categories must make tax filings:

- Sell, pay, transfer, or trade cryptocurrencies or digital tokens;

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- Cryptocurrency mining (subject to section 40(8) of the Revenue Code);
- Earn cryptocurrencies as a salary or wage (subject to section 40(1) and/or 40(2));
- Earn cryptocurrencies or digital tokens by gift or as a reward (subject to section 40(8));
- Receive benefits or returns from holding cryptocurrency (section 40(8)) or digital token (section 40(4)(h)).

Insurers giants signals end of their businesses (31 January 2022)

- Southeast Insurance and Thai Insurance, subsidiaries of Thai Group Holdings (TGH), owned by the billionaire Charoen Sirivadhanabhakdi, withdrew their lawsuits against the Secretary-General (Suttipol) of the OIC (for not allowing them to terminate COVID-19 insurance policies). Following this, the companies voluntarily surrendered their business licenses to the OIC and filed a request to cease operation, despite the fact that TGH has injected THB 9.9 billion to provide financial support for the COVID-19 insurance claims. The request for cease of operation has been suspended by the OIC, as they demanded TGH to establish a management plan to safeguard the insured persons by refunding the full premium to COVID-19 policyholders via online channels. Non-COVID-19 policyholders under these 2 companies, on the other hand, will be transferred to other insurance companies based on their financial stabilities, and approx. 31 companies, including TIDLOR, are now in discussion with TGH on this matter.

Civil Court opens Online Shopping Division (27 January 2022)

- The Civil Court has opened a special division, under the tagline “Easy Access to Justice”, to handle online shopping disputes 24-7, with the goal of protecting consumers from defective items, deception etc. This new division will use the E-Court system for all procedures, from e-filing a complaint to resolving a dispute, with no legal fees, no need to appear in person, no matter how small a claim is, and the complaint can be filed anywhere in the country (without having to consider the court’s jurisdiction). Within 12 hours of filing a complaint, the status of each case can be tracked online. The spokesman for the Court of Justice believes that it will ensure a convenient and swift judicial procedure for all online shoppers.

Permission for Certain Groups of Aliens to Stay and Work in the Kingdom as a Special Case

- Due to the Thai government's measures to attract high-potential foreigners, the long-term residence "LTR" visa has been proposed. In order to pursue such a move, the Cabinet has approved in principle two draft Notifications, as proposed by the Ministry of Interior (MOI) and the Ministry of Labour (MOL). In detail, international applicants must submit a request for a qualification endorsement to the BOI, and then apply to the Immigration Bureau for a Non-Immigrant Visa Category "LTR". Some of the conditions of the LTR visa are shown below:

Qualifications (classified in 1 of following categories):

Wealthy global citizen, pensioners from abroad, Work-from-Thailand professionals (Thailand based), or highly-skilled professionals

Privileges of LTR visa:

- A 10-year LTR visa for the applicant, including their spouse and children under the age of 20 (maximum of 4 dependents), valid for 5 years and renewable for up to 5 years;
- Exempted from the 90-day report;
- Exempted from tax on income from abroad (however for highly-skilled professionals, they will be subject to PIT on income earned in Thailand at a rate similar to the fixed income tax rate of 17% for EEC personnel;
- Automatic work permit, upon submission of the application;

**Remark: These privileges are not yet confirmed, they may be subject to further changes until the Notifications are officially published in the Government Gazette.*

<https://www.thaigov.go.th/news/contents/details/50657> (item no.2 and no.3)

OECD invites Thailand to join RPC as Participant

- On 23 November 2021, the Regulatory Policy Committee (RPC) passed a resolution inviting Thailand to join the RPC as a Participant. Prior to joining, the Ministry of Foreign Affairs expressed its support, stating that it will assist Thailand's legal system to develop and meet international standards. Currently, the Cabinet has approved Thailand to join the RPC, and the country is in the process of sending the acceptance letter to the OECD.
<https://www.thaigov.go.th/news/contents/details/50657> (item no.23)

Government Gazette

Reduction of fees at the Land Department

- According to the Land Code, the collection of fees for right and juristic act registration will be reduced to 0.01% (from the normal rate of 2% in case of transfer and 1% in case of mortgage) for the transfer and mortgage of a **building or land with a building**, whether for residential or commercial purposes. This applies to any Thai national who purchases an immovable property for less than THB 3 Million (both the purchase price and property's assessed value must be less than THB 3 Million, and the mortgage amount must not be over THB 3 Million). The same fee reduction rate and price criteria will also apply to **condominium units** for the transfer of ownership and mortgage. These fees reduction will be in effect until the end of 2022.

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/011/T_0014.PDF

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Amendment of consideration for temporary stay in the Kingdom

- According to the Cabinet Resolution on 15 June 2021, the Thai government agreed that there should be an amendment to the criteria, conditions, and documents, specifically on the obligation to purchase health insurance for aliens who have been granted **Non-Immigrant Visa Class O-A** (1 year). Some of the issues that

this new amendment tries to resolve are that non-Thai insurance cannot be purchased for visa extension, and an alien over the age of 70 could not purchase Thai insurance, hence lacking the qualifications for a longer stay.

The Royal Thai Police, therefore, issued Order No.654/2564, adding the condition and criteria allowing a Non-Immigrant Visa Class O-A holder to choose between purchasing non-Thai or Thai insurance. If an alien chooses to purchase non-Thai insurance or has a social welfare from a foreign country, the coverage must include all medical expenses and COVID-19 treatment insurance with a minimum coverage of USD 100,000 (approx. THB 3 Mio.), covering the duration of the alien's stay in Thailand.

In addition, the Order of the Immigration Bureau no.312/2564 was published concerning the documents required for an alien who selects the foreign insurance or has non-Thai social welfare as stated herein, to have these documents certified by such foreign Embassy in Thailand or notarized by the Ministry of Foreign Affairs of the applicant's country, in accordance with the form specified by the Thai Ministry of Public Health. The sample of such form can be viewed via the link below.

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/017/T_0017.PDF

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/017/T_0016.PDF

Issuance of Certificate for importation of automobile parts and tariff benefits under the RCEP:

- Thailand has signed and ratified the Regional Comprehensive Economic Partnership Agreement (RCEP). China, Japan, and Vietnam are among the members. By joining the RCEP, some products, including automobile parts, will be eligible for zero import tariffs between these signatory countries. In order to comply with the RCEP, the Ministry of Industry issued a Notification on the Criteria, Methods, and Conditions for issuing a certificate for the importation of the automobile parts. The applicant for the certificate must be a manufacturer of cars, car components, or car accessories, with the intent to import such automobile parts originated from RCEP countries into Thailand. One of the requirements is that the manufacturer must be

authorized to operate factory business relating to assembling or manufacturing as defined by the factory law. The application for certificate issuance must be submitted to the Thailand Automotive Institute, and the certificate must be renewed within 3 months prior to the expiration date (expired on 31 December of every year).

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/021/T_0006.PDF