



## Legal Update Week 51 – 53 (14 Dec 20 – 14 Jan 21)

### Thailand legal news

#### Highlights:

- New BOI incentives to boost the economy
- 2 new DG Notifications on transfer pricing and related parties
- New Notification on the criteria and benefit rate for the standard antenatal care granted to insured persons

- **18 December 2020:**

- Foreign visitors from 56 countries including Australia, France, and the United States are allowed to travel without visas. However, they still require a medical certificate illustrating that they are not infected with Covid-19, which must not be older than 72 hours before flying, and they have to stay at a listed quarantine hotel for 14 days, as announced by the Centre for Covid-19 Situation Administration (CCSA).

- **22 December 2020:**

- The BOI has granted additional measures to boost the economy. Those new incentives are as follows:
  1. An additional 50% CIT deduction is offered for 5 years of investment projects worth at least THB 1 billion;
  2. Two-year extension (until 2022) of incentives for the investment in 5 southern provinces (Narathiwat, Yala, Pattani, Satun, and four districts in Songkhla), with CIT exemption for 3-8 years;
  3. Two-year extension (until 2022) of incentives for the projects in special economic zones in 10 provinces;

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4. CIT exemption for 3 years for upgrading digital efficiency among manufacturers;
5. New special economic zone for Genomics at Burapha University.

- **23 December 2020:**

- Bitcoin Company Limited (BX), the first digital currency exchange in Thailand, was criminally charged by the Securities and Exchange Commission (SEC) alleging that BX transferred its customers' digital assets to different addresses regardless of consent and authorization from the customers. The next process is the identification of offenders conducted by the inquiry officers.

- **26 December 2020:**

- An excise tax exemption for alcohol for cleaning purpose was prolonged to June 2021 to subsidize the public for preventing the spread of Covid-19 and reduce the tax burden, as announced by the Excise Tax Department.

- **29 December 2020:**

- The Bank of Thailand redetermined the criteria of SMEs to be eligible for the soft loan program. One of these criteria for the loan approval is to regroup the related persons and the SME (e.g. for corporate borrowers, all subsidiaries or associated companies are considered as one entity).

- **7 January 2021:**

- 13 protest leaders who organized the protest in front of the German Embassy last October met with the police. The case will be later submitted to the public prosecutor, together with the custody of the protest leaders. The leaders said that at the moment all protests are postponed due to the current high risk of COVID-19.

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- **14 January 2021:**
  - 2 new Director-General Notifications have been announced by the Revenue Department on 14 January 2021, in relation to transfer pricing and related-party transactions. The Notifications are:
    - Notification No. 400: In relation to the incomes-expenses adjustment for the related parties; e.g.
      - definition of controlled and uncontrolled business;
      - price determination can be determined by 1) comparable uncontrolled price, 2) resale price, 3) cost plus, 4) transactional net margin, or 5) transactional profit split;
      - For services, the service fee must be from the actual services, for business benefit, at arm-length, and at the reasonable rate as an independent service. The service fee for the shareholders' or partners' benefit is not considered as independent compensation.
    - Notification re: disclosure form:
      - Annual disclosure form is submitted via RD website or via Tax Single Sign On system of the Ministry of Finance;
      - In case of necessity, paper disclosure form can be submitted to the RD, with the letter explaining the necessity;
      - This notification shall govern the tax year starting on or after 1 January 2021.

## New Cabinet resolutions

- **15 December 2020:**
  - **Approved principle:** Draft Ministerial Regulation prescribing type or category of building criteria, procedures, conditions and the sum insured, requiring the building owner, possessor or dealer to have the third party insurance coverage for life, body, and property under the Building Control Act B.E. ...

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- Determines that any construction, modification, relocation, demolition of the extra-large building, private high-rise building is required to have the third party insurance coverage for life, body, and property under the conditions upon obtaining the license or construction approval before starting the construction. The insurance must cover the duration that the building is constructed, modified, or demolished.
- Prescribes that the private high-rise building, hotel (up to 80 rooms), service place (the area up to 200 sqm.), signboard or any installation up to 15 meters from the ground or the size of up to 50 sqm. is required to have third party insurance during the construction.
- **Approved principle:** Draft Ministerial Regulation prescribing the characters or types of works that an employer is prohibited to hire the homeworkers B.E. ...
  - Prescribes the lists of prohibited works that an employer cannot assign to homeworkers to work at home as follows:
    1. Works in relation to the high heat (bringing the temperature of the working place up to 34 Celcius) can be dangerous;
    2. Works that affect the health, safety, environmental quality, including works related to band saws or causing the noise up to 85 dB(A) in average for the 8-hour workday.
- **22 December 2020:**
  - **Approved principle:** Draft Credit Information Business Act (Issue no. ...) B.E. ...
    - Amend the definition of “credit information” and “member”, add the new definition of “financing supplier business”;
    - Amend the provisions regarding the disclosure of information to members or service providers, e.g. the credit information company must inform the data owners within 30 days after the disclosure or giving the data;

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- Determine the duties and rights of the members of the financing supplier business regarding the information of the clients.
- **Approved principle:** Draft Ministerial Regulation prescribing the criteria procedures and rates of the treatment fee, rehabilitation cost, funeral expense, incurred by the employer B.E. ...
  - Determines that any home workers, the heir, funeral manager or any relatives shall notify the employer as soon as possible in case a homemaker gets an injury, sickness, disability, or passes away.
  - The employer must pay for:
    - Treatment fee in the actual cost, but not more than THB 50,000 per occurrence;
    - Rehabilitation cost in the actual cost but not more than THB 100,000;
    - Funeral expense THB 40,000.
- **Approved principle:** Draft Ministerial Regulation prescribing the standards for administration, management, and procedures to Occupational Safety, Health and Environment in the dangerous places with the risks from falling from high and steep slope, from objects bounced off, failed or destroyed, or from the falling into the container to material storage B.E. ...
  - Add the definition of “working at the high place”, “scaffolding”, and “building”;
  - Prescribe that an employer must arrange the rule and operating procedures for the safety of the work at the high place or steep slope or any other risks;
  - Prescribe the duties of the employer to arrange the proper measures for the safety of employees such as providing the scaffolding, safety net for the working at the high place up to 4 meters etc.

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- **Approved principle:** Draft Ministerial Regulation prescribing the allowance payment in the case of child welfare (issue no. ...) B.E. ...
  - Increase the allowance from THB 600 to THB 800 per month per child;
  - This is effective since 1 January 2021.
  
- **Approved principle:** Draft Ministerial Regulation prescribing the contribution rate of the social security fund B.E. ...
  - From 1 January to 31 March 2021, the government, the employer, and the insured person under Section 33 is obligated to contribute to the fund at the following rates:
    - Amend the contribution for the sickness, disability, death, and child delivery at the rate of 1.05 percent;
    - Amend the contribution rate paid by the employer and insured person for the contribution in the cases of child allowance, and pension at the rate of 1.85 percent;
    - Amend the contribution rate paid by the employer, insured person, and government to 1.45, 0.1, and 0.25 percent for the unemployment benefit, respectively.
  - From 1 April 2021, the government, the employer, and the insured person under Section 33 are obligated to contribute to the fund at the following rates:
    - For the disability, death, child delivery benefit 1.5 percent for each;
    - For the child benefit and pension, the employer and the insured person must pay at the rate of 3 percent for each and the government shall pay 1 percent;
    - For the unemployment benefit, the employer and the insured person shall pay 0.5 percent and the government shall pay 0.25 percent.

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- **Approved draft:** Draft Notification of the Ministry of Interior re: increase the period of time permitted for stay for certain groups of foreigners in the Kingdom:
  - Extend the period for stay from 30 to 45 days for the foreigners entering Thailand temporarily.
  
- **Approved draft:** Draft Ministerial Regulation re: benefits for unemployment in the event of force majeure resulting from the outbreak of dangerous communicable diseases under the communicable disease law B.E. ...
  - Defines the definition of force majeure to cover the danger resulting from the outbreak of dangerous communicable diseases which causes the insured person to be unable to work normally.
  - Grants 50% of wage (max. THB 7,500 per month) to the employees who cannot work and not receive wage due to the government's order to lock down the area for the COVID-19 prevention measure.
  
- **29 December 2020:**
  - **Approved draft:** Draft Royal Decree re: approve the license holders (under several laws) to pay fees to renew the license, instead of having to submit applications for the license renewal B.E. ...
    - Determines that the license holders under the prescribed laws, such as Export Commodity Standards Act B.E. 2503, Public Health Act, Health Facility Act, B.E. 2541, can pay the fee instead of submitting the application for the license renewal.

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## Government Gazette Update:

Date	Part	Subject
21 December 2020	Phiset Ngor	<ul style="list-style-type: none"><li>- Notification of the Ministry of Public Health's Emergency Operation Centre for COVID-19 re: guideline on the determination of Wellness Quarantine</li><li>- This offers Thai and long-stay foreigners, together with not more than 3 followers, who would like to include wellness and health treatments during their 14-day quarantine in Thailand. It is categorized into 3 models, namely the Medical Spa /Wellness Resort /Spa Resort, and the Long-term Care model.</li><li>- <u>Effective date:</u> 21 December 2020</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/297/T_0017.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/297/T_0017.PDF</a></p>
25 December 2020	Kor	<ul style="list-style-type: none"><li>- Ministerial Regulation determining the prohibited disease for foreigners entering the Kingdom or having a residence in the Kingdom B.E. 2563</li><li>- Add Coronavirus Disease 2019 (COVID -19) to the list of prohibited diseases for foreigners to enter the country.</li><li>- <u>Effective date:</u> 26 December 2020</li><li>- <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/105/T_0012.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/105/T_0012.PDF</a></li><li>-</li></ul>
	Phiset Ngor	<ul style="list-style-type: none"><li>- Notification of the Ministry of Interior re: the extension period of the stay permit for particular foreigners:</li><li>- Permit foreigners entering into the Kingdom temporarily to stay in Thailand for not more than 45 days.</li><li>- <u>Effective date:</u> from 22 December 2020 to 30 September 2021</li><li>- <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0032.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0032.PDF</a></li></ul>
	Phiset Ngor	<ul style="list-style-type: none"><li>- Notification of the Medical Committee under the Social Security Act re: criteria and rate for the maternity benefit</li></ul>



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		<ul style="list-style-type: none"><li>- The insured person is granted the child delivery expense in the amount of THB 15,000 per time for any delivery of the insured person, or wife of the insured person.</li><li>- <u>Effective date:</u> 1 January 2021</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0054.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0054.PDF</a></p>
Phiset Ngor		<ul style="list-style-type: none"><li>- Notification of the Medical Committee under the Social Security Act re: the criteria and rate for promoting health and preventing of the disease for the benefit in case of non-occupational injury or sickness</li><li>- Amends that the age of pregnancy more than 20 weeks but less than 28 weeks will be paid the actual amount but not more than THB 300.</li><li>- <u>Effective date:</u> 1 January 2021</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0055.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0055.PDF</a></p>
Phiset Ngor		<ul style="list-style-type: none"><li>- Notification of the Medical Committee Under the Social Security Act re: the criteria and rate for the benefit regarding the standard antenatal care</li><li>- The insured person or wife of the insured person will be granted the examination and antenatal care fees under the rate as follows:<ol style="list-style-type: none"><li>1. The age of pregnancy not more than 12 weeks paid the actual cost but not more than THB 500;</li><li>2. The age of pregnancy more than 12 weeks but not more than 20 weeks paid the actual cost but not more than THB 300;</li><li>3. The age of pregnancy more than 20 weeks but not more than 28 weeks paid the actual cost but not more than THB 300 (same as above);</li><li>4. The age of pregnancy more than 28 weeks but not more than 32 weeks paid the actual cost but not more than THB 200;</li><li>5. The age of pregnancy more than 32 weeks but not more than 40 weeks paid the actual cost but not more than THB 200.</li></ol></li><li>-<u>Effective date:</u> 1 January 2021</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0056.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0056.PDF</a></p>

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	Phiset Ngor	<ul style="list-style-type: none"> <li>- Notification of the Medical Committee under the Social Security Act re: the criteria and rate for promoting health and preventing of the disease for the benefit in case of non-occupational injury or sickness B.E. 2563               <ul style="list-style-type: none"> <li>- The insured person aged 50 years or older is granted the influenza vaccine as follows:                   <ol style="list-style-type: none"> <li>1. Any insured person who has not received the vaccine in 2020;</li> <li>2. In 2021, the insured person is granted the vaccine from 1 May to 31 August 2021;</li> <li>3. From 2020, the insured person will be granted the vaccine once per year from 1 May to 31 August every year.</li> </ol> </li> <li>- <u>Effective date:</u> 1 January 2021</li> </ul> </li> </ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0058.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/302/T_0058.PDF</a></p>
28 December 2020	Phiset Ngor	<ul style="list-style-type: none"> <li>● Ministerial Order of the Ministry of Interior no. 3/2563 re: Determination of conditions for the approval for certain groups of foreigners to enter the Kingdom temporarily               <ul style="list-style-type: none"> <li>- Temporary cease the visa on arrival for some countries;</li> <li>- <u>Effective date:</u> from 1 January to 31 March 2021.</li> </ul> </li> </ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/303/T_0086.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/303/T_0086.PDF</a></p>
29 December 2020	Kor	<ul style="list-style-type: none"> <li>● Ministerial Regulation re: determination of the fee rate, the reduction of the fee rate, the exemption of the registration fee, the application for document checklist, the application for the certified copy, and other fees in relation to the partnership and company B.E. 2563               <ul style="list-style-type: none"> <li>- Determines the new rate of service fee such as the company registration, merge registration.</li> <li>- <u>Effective date:</u> 1 January 2021</li> </ul> </li> </ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/106/T_0013.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/106/T_0013.PDF</a></p>
30 December 2020	Kor	<ul style="list-style-type: none"> <li>● Ministerial Regulation re: the unemployment benefit due to force majeure as a result of the harmful contagious diseases under the Contagious Disease Act B.E. 2563               <ul style="list-style-type: none"> <li>- Defines the definition of force majeure to cover the danger resulting from the outbreak of dangerous communicable</li> </ul> </li> </ul>

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		<p>diseases which causes the insured person to be unable to work normally.</p> <ul style="list-style-type: none"><li>- Offers 50% of daily wage (max. THB 7,500 per month) for the employees who cannot work and not receive wage due to the COVID-19 prevention measures, e.g. the self-quarantine, the workplace is ordered to temporary close fully or partly but the employment continues during the period that the employees cannot work, but not more than 90 days.</li><li>- Social Security Office shall cease the payment upon the following conditions:<ol style="list-style-type: none"><li>1. The applicant of benefit resigns or is terminated.</li><li>2. The employment period of the applicant ends due to the end of the employment contract.</li></ol></li><li>- <u>Effective date:</u> 19 December 2020</li><li>- <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/107/T_0006.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/107/T_0006.PDF</a></li></ul>
	Kor	<ul style="list-style-type: none"><li>• Ministerial Regulation prescribing the rate of social security fund's contribution B.E. 2563</li><li>- Determines the 2 tables prescribing the rate of contributions incurred by each employee, employer, and government for 2 different periods; from 1 January 2021 to 31 March 2021, and from 1 April 2021 onwards.</li><li>- <u>Effective date:</u> 1 January 2021</li><li>- <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/107/T_0009.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/107/T_0009.PDF</a></li><li>-</li></ul>
	Phiset Ngor	<ul style="list-style-type: none"><li>• Notification of Ministry of Interior re: the stay-permission of certain groups of foreigners under Covid-19 pandemic situation in accordance with the ministerial resolution dated 29 December 2020</li><li>- Permits 3 nationals; Cambodia, Laos, and Myanmar who entered the country without the permission or the stay permission was expired before 29 December 2020, to stay in the country particularly from 29 December 2020 to 13 February 2021.</li><li>- <u>Effective date:</u> 29 December 2020</li><li>- <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/305/T_0012.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/305/T_0012.PDF</a></li></ul>

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Phiset Ngor	<ul style="list-style-type: none"><li>• Notification of the Ministry of Labour re: the work permit of certain groups of foreigners under Covid-19 pandemic situation in accordance with the ministerial resolution dated 29 December 2020</li><li>- Permits 3 nationals; Cambodia, Laos, and Myanmar who entered the country without the permission or the stay permission was expired before 29 December 2020, to work with their respective employers temporarily during the period between 29 December 2020 and 13 February 2021 regardless of the work permit.</li><li>- <u>Effective date:</u> 29 December 2020</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/305/T_0016.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/305/T_0016.PDF</a></p>	
Phiset Ngor	<ul style="list-style-type: none"><li>• Notification of the Customs Department issue no. 203/2563 re: the show of the certificate of the origin of the goods for the importers affecting from the COVID-19 pandemic:</li><li>- Permits importers to show the copy of the certificate of origin for the tariff exemption in accordance with the free trade agreement (FTA) only in case that the original document cannot be sent from the country of origin to Thailand in order to take Customs formalities, due to the COVID-19.</li><li>- <u>Effective date:</u> 1 January 2021 to 31 March 2021</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/305/T_0037.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/305/T_0037.PDF</a></p>	