

## Legal Update Week 7 - 8 (14 – 28 February 2022)

### Thailand Legal News

#### **SEC strengthens rules on digital asset operators' custody of their client's assets (28 February 2022)**

- The SEC issued a new regulation to tighten digital asset business operators' oversight to protect investors. The significant regulations on the custody of clients' digital assets are:
  - o For the withdrawal or transfer of funds in the account opened for the benefit of customers, the digital asset business operator must obtain approval from 2 authorised persons (for withdrawal or transfer between THB 2-50 million), and another independent person to check the transaction (if over THB 50 million);
  - o Utilisation of a customer's assets, funds, and digital assets is forbidden for the benefit of another customer/person;
  - o Utilisation of a customer's digital assets to seek benefits (e.g. deposit and loan to others) is forbidden, except investing with licensed digital asset fund managers.

[https://www.sec.or.th/TH/Pages/News\\_Detail.aspx?SECID=9336](https://www.sec.or.th/TH/Pages/News_Detail.aspx?SECID=9336)

#### **New government measure to promote EVs**

- The Cabinet approved incentive measures to encourage the electric vehicles (EVs) purchase and investment in Thailand. One of the

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## Cabinet Resolutions

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requirements to be eligible under this measure is that the applicant must be an industrial operator in countries that have an agreement with the Excise Department. Only BEVs (Battery-Powered Electric Vehicles) are eligible. The benefits are as follows:

- A government subsidy ranging from THB 70,000-150,000 per a car/truck;
- An excise tax of 2% (reduced from 8%) for car, and 0% for truck;
- Import duty reductions for up to 40% for CBU (Completely Built Up);
- Import duty exemption for CKD (Completely Knocked Down).

*\*CBU refers to imported vehicles that are ready to use, whereas CKD refers to vehicles that have been imported as parts and will be assembled in Thailand.*

<https://www.thaigov.go.th/news/contents/details/51583> (item no.19)

### **Tax Incentives to attract High-Potential Foreigners**

- The Cabinet approved in principle the Draft Royal Decree issued under the Revenue Code, which is a measure to attract high-potential foreigners who are qualified for Thailand's LTR (Long-Term Resident) Visa. The tax privileges are classified by the types of qualifications as shown below:



Qualifications	Tax Privileges
1. Wealthy global citizens	PIT exemption for assessable income earned in the previous tax year as a result of work or business performed in foreign countries, or due to assets being located in foreign countries, and bringing cash into Thailand.
2. Pensioners from abroad	
3. Work-from-Thailand professionals <i>*working online and have income from abroad, but stay in Thailand over 180 days</i>	
4. Highly-Skilled Professionals <i>*having experience in the targeted industries</i>	Entitled to the same PIT exemption as above, and also entitled to an exclusive <u>reduced WHT at 17%</u> for assessable income, related to employment in the targeted industries operators, that were granted CIT exemption. In case the taxpayer does not claim for tax refund or credit, this assessable income will <b>not</b> be included in the computation of PIT when filing a tax return.

<https://www.thaigov.go.th/news/contents/details/51808> (item no.1)

## **New amendment to the Copyright Law**

- Under the new Copyright Act (No.5) B.E. 2565, some of the significant changes are mainly on ISPs (internet service providers):
  - o ISPs are exempt from liability, when acting as an intermediary for transmitting computer data, temporarily storing computer data, computer data depositary, and searching for the computer data source, in certain circumstances as listed in the Act.
  - o The requirements for court proceedings were removed as the measures to suspend online copyright infringement allows ISPs (e.g. Facebook and YouTube) to promptly remove infringing works from their systems when the copyright owner notifies them.

This Act will be fully enforced on 23 August 2022.

[http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/A/013/T\\_0001.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/A/013/T_0001.PDF)

## **Renewal of Lease in the Industrial Estates of Map Ta Phut and Laem Chabang**

- After the lease term has expired, the business operators who lease land in the Map Ta Phut and/or Laem Chabang Industrial Estates can renew the lease for another 30 years (originally the lease could only be renewed for 20 years). Such lease renewal must be done in writing as per the form specified by the Industrial Estate Authority of Thailand and registered with the Land Department.

[http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/039/T\\_0050.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/039/T_0050.PDF)

## **Guidelines for the Calculation for THOR Interest Rate Reference**

- The Bank of Thailand (BOT) issued its Notification to establish standard guidelines for Thai Overnight Reference Rate (THOR). THOR is commonly used in credit facilities, loans, bonds, etc. Under this Notification, the financial institutions are required to calculate the amount of interest rate that must be paid (reference THOR) using the compound average formula, which takes into account the time value of money to accurately reflect the actual financial cost. This formula will not be deemed as a compound interest, which is prohibited under the law.

[http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/039/T\\_0051.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/039/T_0051.PDF)

## **Criteria and Conditions for Location and Environment of Powerplant Consideration for Electricity Generation License Issuance**

- Prior to the issuance of the electricity production license, the location of the powerplant will be determined based on types of

technology and fuel utilised to generate electricity. For example, the Energy Regulatory Commission will consider the location and environment. There are criteria for the solar powerplant with not more than 1,000 kW capacity, and hydro powerplant with over 15 MW capacity, considering all relevant laws (e.g. town planning and enhancement and conservation of environment).

[http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/041/T\\_0011.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/041/T_0011.PDF)

## **Extension of the Country-by-Country Report Filing Deadline**

- The Revenue Department has extended the deadline for filing Country-by-Country Reports (CbCR).
  - For the ultimate parent company of a Multinational Enterprise (MNE) group incorporated under Thai law, the deadline for filing the CbCR will be extended to within 12 months after the end of each accounting period.
  - Companies conducting business in Thailand that are required to file CbCR will be given a 60-days extension from the date of the receipt of the notification from the tax assessment officer. These extensions apply to CbCR for accounting periods commencing on or after 1 January 2021.

[http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/041/T\\_0018.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/041/T_0018.PDF)