

Legal Update Week 9 - 10 (1 – 13 March 2022)

Thailand Legal News

Government agencies are investigating PWO's glove fraud case (1 March 2022)

- Since officers of Public Warehouse Organization (PWO) were dismissed after placing a THB 2 billion (approx. USD 61 million) deposit for the medical gloves deal with Guardian Gloves Co., Ltd. without the board approval. This case is currently being investigated by 3 government agencies:
 - Ministry of Finance (MOF) – PWO filed the case to the MOF claiming for tortious liabilities of the ex-PWO board and officers;
 - Office of the National Anti-Corruption Commission (ONAC) – The ONAC will determine the relevant criminal charges and forward the case to the public prosecutor for criminal case filing;
 - Anti-Money Laundering Office (AMLO) – For civil proceedings, AMLO will demand THB 2 billion compensation (deposit amount) from all relevant parties.

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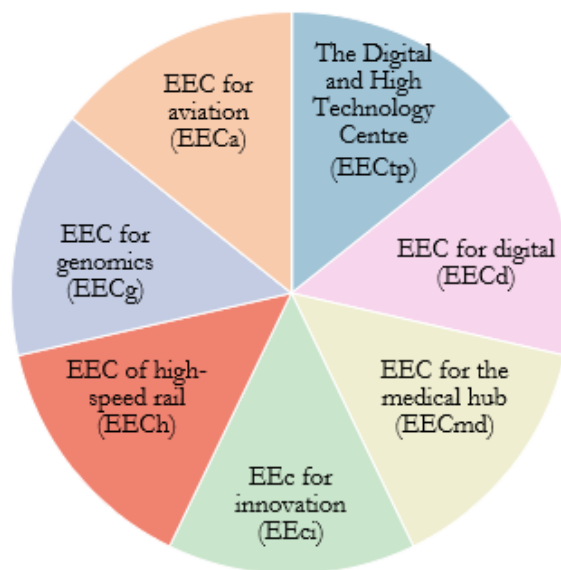
27th Floor, Bangkok City
Tower, 179, S Sathorn Rd,
Thung Maha Mek, Sathon,
Bangkok 10120

www.lorenz-partners.com

+66 (0) 2 287 1882

EEC investment incentive package in 7 economic zones

The Cabinet approved in principle the Draft Notification of Benefits for Special Economic Promotional Zone Operators for Special Activities. The Secretary-General of EEC claimed that the benefits granted will not be redundant or exceed the privileges provided by the BOI. However, the EEC can provide benefits to industrial groups and several entities at the same time, whereas the BOI can only grant privileges to one business at a time. Tax and non-tax benefits for operators who conduct business in any of these 7 special economic promotion zones are shown in the diagram below:



Benefits for investor operates in seven special economic promotional zones:

- Right of ownership of land and condominium unit;
- 8-year CIT exemption or 50% reduction of CIT;
- Utilize of foreign currencies in the promotional zones;
- Automatic work permit without application for foreign executives or experts;
- Permit foreign executives or experts to bring in aliens, including their spouse and dependents, into the Kingdom.

**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/52060> (item no.9)

Draft Amendment to the Act for the Establishment of and Procedure for the Tax Court


- The proposed amendments were introduced to add the criminal tax proceedings under the jurisdiction of the Tax Court. Additionally, the term “tax case” will be re-defined. Furthermore,

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the criteria for the court's appeal, decision, and order, will adopt the Criminal Procedure Code or the Act on Establishment of District Courts and Criminal Procedure in District Court, for application (*mutatis mutandis*) in the criminal tax proceedings.

<https://www.thaigov.go.th/news/contents/details/52060> (item no.2)

Tax relief measures for digital assets and startup investment

- The Cabinet approved in principle 2 tax relief measures.
 - The first tax relief measure aims to support digital assets trading through:
 - VAT exemption for transfer of cryptocurrencies or digital tokens traded on a digital asset exchange platform approved by the Ministry of Finance (MOF), and transfer of digital currencies issued by the Bank of Thailand (BOT) under the Central Bank Digital Currency (CBDC) development project. Exemption between 1 April 2022 - 31 December 2023
 - PIT exemption for profits derived from the transfer of cryptocurrencies or digital tokens on the amount in excess of the investment that equals the losses from transferring cryptocurrencies or digital tokens incurred in the same tax year. This exemption only applies to profits and losses resulting from the transfer of cryptocurrencies or digital tokens, from 14 May 2018 onwards, on a digital asset exchange platform approved by the MOF.
 - Another tax relief measure to boost startup investment is the draft amendment to the Royal Decree(s) issued under the Revenue Code (No. 597) B.E. 2559 (2016) and (No. 636) B.E. 2560 (2017). Once published in the Government Gazette, this measure will come into effect until 20 June 2032. The tax incentives will vary depending on the type of investments and the beneficiaries: 
 - **Direct investment:** Individuals, companies, or juristic partnerships registered in Thailand/overseas – PIT or CIT exemption for profits derived from transfer of shares of a startup that operates in the government's targeted industries.
 - **Investment via Venture Capital:**
 - Corporate Venture Capital (CVC) – CIT exemption for profits derived from transfer of

shares of a startup that operates in the government's targeted industries.

- Investors in CVC – PIT or CIT exemption for profits derived from transfer of shares of a CVC.
- Private Equity (PE) Trust – Not subject to CIT.
- Investors in PE Trust – PIT or CIT exemption for profits derived from transfer of trust units of a PE Trust.

<https://www.thaigov.go.th/news/contents/details/52329> (item no.2 and no.3)

Draft Amendment to the Damages for Injured Person and Compensation and Expenses for the Accused in Criminal Case Act

- This Draft was introduced to extend the coverage for “alleged offender”, with the Act’s name being revised into “Protection for Injured Person, Alleged Offender, and Accused in Criminal Case Act”. The protection will be provided for the alleged offender and accused during the inquiry stage (originally only the stage of custody during court trial). Furthermore, the request for damages, compensations, or expenses can be submitted via electronic means, and the application period will be extended to 2 years (from 1 year).

<https://www.thaigov.go.th/news/contents/details/52329> (item no.4)

New Guideline for Considering Unfair Trade Practices regarding Actions Causing Damage to Other Business Operators

- The Trade Competition Commission of Thailand (TCCT) has issued a new guideline to provide a clearer explanation of what constitutes unfair trade practices, along with samples and factors, in order to ensure fairer and more consistent trade practices. For example, abuse of market or bargaining power by requiring other business operators to accept certain terms and conditions deviating from those agreed upon in the contract without justifiable reason. Furthermore, a threshold of 10% but not exceeding 30% has been added to the determination of the superior bargaining power (originally only stated as not over 30%).

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/041/T_0051.PDF