



Legal News Update Thailand Nr. 001 (EN)

Legal/Tax Update Thailand

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Welcome to our first edition of our Legal News Update (Thailand) for 2015. We aim to bring our clients interesting updates on legal and tax-related issues on a regular basis.

I. **New BOI Policy for 2015:**

The Board of Investment (“BOI”) recently issued their new promotion policy (effective 1 January 2015) cancelling the previous zone-based incentives. Under the new incentives, the eligible activities are entitled to either of the following packages:

- **A1:** 8 years (unlimited amount) corporate income tax exemption and the import duty exemption on machineries and raw materials;
- **A2:** 8 years (limited amount) corporate income tax exemption and the import duty exemption on machineries and raw materials;
- **A3:** 5 years (limited amount) corporate income tax exemption and the import duty exemption on machineries and raw materials;
- **A4:** 3 years (limited amount) corporate income tax exemption and the import duty exemption on machineries and raw materials;
- **B1:** only import duty exemption on import of machineries and raw material, including other non-tax incentives (e. g. work permit, approval on land ownership and foreign wholly-owned companies);
- **B2:** only non-tax incentives (e. g. work permit, approval on land ownership and foreign wholly-owned companies);

The category of the operators shall be determined by the type and complexity of the technology, used in each of the operations of the business. The higher and more complex technology the company uses or develops, the more incentives will be given to the company.

Beside the aforementioned revision of the BOI categories, the major change on the investment promotion is that the BOI allow the use of second-hand machines which is not older than 5 years from its manufacturing date. Any machine which is older than 5 years can be used but will not be calculated as an investment for the purpose of calculation of tax exemption amount.

II. **Company Affidavit in English language:**

Starting 16 January 2015, the Department of Business Development (“DBD”) can issue the certified Company Affidavit in English language. The maximum fee is THB 1,200 per affidavit. The process for the issuance of such affidavit will take 2 days.

III. **Domestic travel tax deduction:**

The Thai government issued a new regulation related to the personal income tax (PIT) deduction for domestic travel expenses, up to THB 15,000 that incurred between 16 December, 2014 and 31 December, 2015. These expenses include payments for tour guides, travel agents and hotels.

For the documentation for the tax return process, the tax payer must collect the receipts or tax invoices, issued by tourism offices registered with the Bureau of Tourism Business and Guide Registration or issued by the authorised hotels which are registered and officially empowered to issue such receipt. The list of the authorised/registered hotels and tourism of-

files are available on the Revenue Department website: www.rd.go.th. Such receipt or tax invoice has to specify the name of the tax payer who will use it for further tax deduction.

The hotel expenses which are eligible for PIT deduction must be expenses paid directly to the hotel or travelling office as accepted. The hotel receipt is required to support the tax refund. The payment to an online hotel booking website cannot be used for tax reduction, as the hotel cannot issue the tax invoice.

We further note that the travelling expense such as airplane, train or bus ticket purchase directly with the operators cannot be used as a tax deduction, under this scheme. Therefore, it is advisable to purchase the tour package from a registered travel agent which includes the transportation. By doing so, the total payment for such tour package, inclusive airplane, train or bus ticket, can be used for tax deduction.

IV. Online 90 days report:

Foreigners who stayed in Thailand over a period of 90 days have to make their 90 days report, normally at the immigration office.

From 1 April 2015, the 90 days report can be conducted online. To utilise this online service, the applicants can submit his/her application within 15 days but not less than 7 days prior to the actual 90 days report due date at www.immigration.go.th.

After submitting the online application, the applicant can check his/her status on the same website. The application should normally be approved within 7 working days. Once the application has been approved, the applicant will receive the online notification stating the due date for the next 90 days report. We note that the applicant should print this letter out and keep it in his/her passport book.

In case the application is not approved, the applicant has to submit the application again at the nearest Immigration Office and has to bring his original passport, departure card

(TM.6) and completed the 90 days report form (TM.47) for the submission.

V. Work Permits:

In order to support the Regional Operating Headquarters (ROH) scheme, and to promote the newly approved International Headquarters (IHQ) and International Trading Centers (ITC), the Department of Employment has, on 6 March 2015, announced the 7 activities which are not considered as working under the Working of Alien Act B.E. 2551.

As these activities are not considered “work”, the requirement of a work permit does not apply. The exempted activities are as follows:

- Attending meetings and seminars;
- Attending exhibitions and trade shows;
- Visiting a client or business negotiations;
- Attending lectures on academic matters;
- Attending lectures on technical trainings;
- Buying products/goods from exhibitions;
- Attending Board of Directors’ meeting of the own company;

Please note however that giving lectures or conducting exhibitions/trade show still require the work permit.

VI. Bill on Debt Collection:

The Debt Collection Act B.E. 2558 (DCA), has been officially declared on 3 March 2015 and shall become effective in September 2015.

The DCA requires the entity who normally conducts debt collection to register with the registrar to conduct the business as a debt collector.

The law provides several prohibitions on the creditors and protections for the debtors. The major conditions are:

Prohibitions on the creditors:

- not to demand for the payment from any third party who is not a debtor or a guarantor;
- not to use strong language or defame the debtor;
- not to disturb or annoy the debtor (eg. Make several telephone calls in a day);
- not to use the unsealed document which can be obviously seen as a demand for debt (postcard, fax, etc.);
- not to mark or indicate the debt collector on the envelope;

- not to mislead the debtor to understand that the demand is issued by any authorities;
- not to charge any collection fee or persuade the debtor to issue pre-dated cheques (knowingly that the debtor cannot honour the cheques);

Requirement for contacting the debtors:

- only contact the debtor's given address. If the debtor cannot be reached at such address, the creditor has to contact the other reasonable address (domicile, work place);
- if contacting via telephone, fax or in person, only during 8 am – 8 pm on a working day and 8 am – 6 pm on a holiday;

Violation of the law shall be subject to criminal penalties (depending on the violation) of imprisonment for not over 5 year or a fine for not more than 500,000 THB, or both. As an administrative punishment, the registered debt collector can be delisted in case of violation.

See you next issue!

We hope that the information provided in this brochure was helpful for you. If you have any further questions please do not hesitate to contact us.

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