

ASEAN TODAY

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ASEAN Economic Community News

ASEAN-Korean IP Cooperation

The heads of the intellectual property offices of the ASEAN member countries and the Korean Intellectual Property Office signed a Memorandum of Cooperation (MoC) that launches a cooperative effort in intellectual property between ASEAN and the Republic of Korea. The MoC establishes the beginning of an institutional framework for structured cooperation in promoting the development of IP systems and strengthening bilateral exchange and cooperation in intellectual property. This cooperative effort is part of the ASEAN Economic Community blueprint to make ASEAN innovative and competitive regionally and internationally through intellectual property use.

Tax Collaboration

Experts believe that the ASEAN region will benefit from closer collaboration on tax matters by the individual member states. Currently, protectionism is a rising problem. Also, harmonizing tax rules for digital businesses will help companies, especially small and medium-sized enterprises (SMEs), profit from the region's growing e-commerce market.

Myanmar News

MIC Endorsement

At a recent meeting with foreign chambers of commerce, the new chairman of the Myanmar Investment Commission (MIC) emphasized that under his administration the MIC will be transparent, efficient, and investment friendly. The new chairman said that one of his top priorities will be streamlining the MIC endorsement and setting strict time limits for the processing of business permit applications in order to substantially reduce the current minimum 60-day processing period.

Vietnam Update

Retail Sector Growth

Vietnam's retail sector is dominated by single-shop retailers and small chains, but loosened restrictions for foreign companies in the retail sector may change this. Since 2009, retail businesses under certain conditions can be 100% foreign owned. In 2016, restrictions on opening stores under 500sq/m were loosened allowing for an influx of foreign convenience store chains. Now, under the recently signed Comprehensive and Progressive Agreement for Trans-Pacific Partnership, foreign chains will be able to expand without any additional government screening.

Cambodia News

Illegal Loan Crackdown

The National Bank of Cambodia announced that it will begin cracking down on illegal lenders and has alerted the public about the dangers of cash loans from unregulated sources. The crackdown is in response to the increase in loan advertisements on social media and other campaigns by illegal lenders.

Indonesian Bulletin

Language Requirement

A new presidential decree which came into effect this month will simplify Indonesia's work permit process and make it easier for foreigners to work in the country. However, one new requirement may bring some headaches. Now, foreigners working in the country for more than six months must take formal Indonesian language training. Companies are now responsible to arrange and pay for Indonesian language courses and provide attendance certificates.

Singapore Watch

Cheque Free

As part of its ongoing plan to reduce cash use and increase e-payments, Singapore intends to phase out the use of paper cheques by 2025. Singapore also plans to reduce ATM cash withdrawals by 20% in 2020.

THAILAND LEGAL REVIEW

Corporate Law News

Ministerial Regulation on the Prescription of Fees, Fee Reduction, and Fee Exemption for Registration, Document Inspection, Certified Copy of Document, and other Fees in Relation to Partnerships and Limited Companies B.E. 2561

The Ministerial Regulation came into effect on April 21, 2018 and its significant purpose is to change registration fees to a flat rate of 5,000 Baht per company establishment, replacing the precedent fee rate which range from 5,000 to 250,000 Baht and depend on the amount of registered capital. The Ministerial Regulation was amended so as to be more beneficial to all business startups in Thailand.

Personal Data Protection Bill in Thailand

On May 22, 2018, the Cabinet approved the latest Draft of the Personal Data Protection Act which is expected to be referred to the National Legislative Assembly for approval by the end of this year. Currently, there is no specific law that regulates data privacy in Thailand. There is also no law that addresses the consequences of the European Union's (EU) General Data Protection Regulation (GDPR) that came into effect on May 25, 2018, which could possibly have a negative effect on Thai businesses. Increasing cases of personal data infringement along with the advancement of technology have made it easier to collect, use, and disclose personal data without needing any prior consent or notice that can cause nuisance or damage to the owner of the personal data. The six main points of this draft Act are the definition of personal data, the rights of the data owner, personal data infringement, the data controller's duties, the data processor's duties, and security measures.

Furthermore, those who contravene or fail to comply with the Act will be subject to civil and/or criminal liabilities. In addition, administrative penalties may be assessed in some cases.

Immigration Update

Occupations for Foreign Workers

At the Foreign Worker Management Policy Commission meeting on June 21, 2018, the Ministry of Labour and related agencies voted to approve the "Occupations and Professions prohibited for Foreign Workers" in section 7 of the Foreign Worker Management Emergency Decree, B.E.2560 (2017). A summary of the main points is as follows:

1. The prescription of 28 occupations and professions related to "Thai identity occupations" and/or affecting "job opportunities for Thais" to be occupations that aliens are absolutely prohibited to engage in. The 28 occupations and professions are divided into 3 sections:

1.1) 16 occupations that represent "Thai identity" and promote "Thai heritage and wisdom." 1. Wood carving, 2. Cloth weaving by hand, 3. Mat weaving or utensil making from reeds, rattan, hemp, straw or bamboo pelticle, 4. Mulberry paper making by hand, 5. Lacquerware making, 6. Making Thai musical instruments, 7. Nielloware making, 8. Gold ornaments, silverware or pink gold making, 9. Bronze ware making, 10. Thai doll making, 11. Alms bowl making, 12. Hand making of silk products, 13. Buddha image making, 14. Paper or cloth umbrella making, 15. Typesetting of Thai characters, 16. Silk reeling and twisting by hand.

1.2) 11 occupations which affect "job opportunities for Thais." 1. Driving motor vehicles, driving a non-mechanically propelled carrier or driving a mechanically propelled carrier, except for piloting international aircraft, 2. Shop/Outlet attendance, 3. Auction, 4. Cutting or polishing diamond or precious stones, 5. Haircutting, hairdressing or beauty treatment, 6. Brokerage or agency work, except brokerage or agency work in international trade, 7. Cigarette rolling by hand, 8. Tour guide or sightseeing tour operations, 9. Street vending, 10. Clerical and secretarial work, 11. Legal service or litigation work, except arbitration work or rendering,

assisting or substituting in the arbitration process.

1.3) 1 occupation which represents both “Thai identity” and affects “job opportunities for Thais” - Thai massage.

2. The prescription of 11 occupations and professions in which aliens are permitted to engage in. However, aliens will only be allowed as needed, and an alien’s work status shall be as an employee only. The 11 occupations are divided into 2 parts:

2.1) 8 occupations that an alien may be permitted to engage in as an employee: 1. Agriculture, animal husbandry, forestry, or fishery, except occupations requiring expertise, specialization, or farm supervision work, 2. Bricklaying, carpentry or other construction work, 3. Mattress and quilt blanket making, 4. Knife making, 5. Shoemaking, 6. Hat making, 7. Dressmaking, 8. Pottery or ceramic-ware making.

2.2) 3 occupation areas that Thailand has agreed to under ASEAN International Agreements, and an alien will be permitted to work only if they have a work permit under Thai law: 1. Supervising, auditing, or providing services in accounting, except internal auditing on occasion, 2. Civil engineering works concerning design and calculation, organization, research, project planning, testing, construction supervision or advising, excluding work requiring special expertise, 3. Architectural work concerning designing, drawing of plans, cost estimation, construction directing or advising.

3. Permission for “Labor work” - one of prohibited occupations for foreigners in the Appendix under the Royal Decree in B.E.2522 (1979) on Prescribing Occupations and Professions Prohibited for Foreign Workers - to be an occupation that an alien is allowed to engage in.

Tax Incentives

Income Tax Exemption for Companies in Targeted Industry Businesses

Under a new Revenue Department regulation, corporate income tax exemption is available for a company or registered limited partnership conducting a targeted industry business whose activities are certified as being one using technology in manufacturing or delivering services by the National Science and Technology Development Agency (NSTDA). To claim the exemption, companies must submit the New Start-Up application online via the Revenue Department’s website along with their certification by December 31, 2019.

Corporate entities engaged in the targeted industries must comply with the provisions on corporate income tax of the Revenue Code in the computation of profit and loss. In case the corporate entities engage in both a targeted industry business and another type of business, then profit and loss must be computed separately. However, expenses that cannot be clearly identified may be allocated to each relevant business on a proportion of income basis.

Corporate Income Tax Exemption for Software Purchase and Hire Expenses

Under Royal Decree (No. 647) B.E. 2560, qualified corporate entities are eligible for an exemption on corporate income tax and will be granted an additional 100% deduction for expenses incurred when purchasing or hiring the production of computer programs or for computer program service fees excluding the annual maintenance service fee, equal to 1% of the actual expense and up to a maximum of Baht 100,000 payable to sellers, contractors, or service providers of computer software that have registered with the Digital Economy Promotion Agency. Under the exemption, the computer program or software must be:

- 1) Invented and developed in Thailand;
- 2) Justifiably depreciable under the Revenue Code;
- 3) Available for work in the fiscal year payment is made;
- 4) Not being used under a BOI tax exemption business, in whole or in part; and
- 5) Not being the same computer program or software listed in the report in previous years.

The benefit will be available for the accounting periods commencing on or after 1 January 2017, but not later than 31 December 2019.

Personal Income Tax Exemption for Traveling Costs in 2nd Tier Tourism Provinces

Under the new Revenue Department Ministerial Regulation No. 335 (B.E. 2561), a personal income tax exemption in an amount not exceeding a total of Baht 15,000 as an expense paid from January 1, 2018 - December 31, 2018 for travel in any second-tier tourism provinces or in any other tourism areas or routes determined by the Ministry of Tourism and Sports (MOTS) including accommodation costs for hotels or standardized homestays in such areas. The claimant must request receipts from the tour operator, hotel operator, or homestay operator which indicates the claimant's name, payment amount, date of payment, or travelling routes certified by the MOTS, as the case may be.

Corporate Tax Exemption for Staff Training Seminars held in 2nd Tier Tourism Provinces

Under Section 4 of the Royal Decree (No. 656) B.E. 2561, companies are eligible for a corporate income tax exemption equal to 100% of expenses paid by the company or registered partnership for staff training seminars. Costs include the seminar room, food and beverages, accommodation, transportation, and other related costs such as a lecturer, tools, supplies, copies, VDO and other media furnished for the relevant courses of the seminar or service fees of tour operators registered under the laws of Tourism Business and Guides. All costs must be paid between January 1, 2018 and December 31, 2018. Claimants of the corporate income tax exemption under this scheme must not claim any exemption from income paid as expenses for education or training courses for employees.

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