

# ASEAN TODAY

## REGIONAL LEGAL & BUSINESS NEWS

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### ASEAN Economic Community News

#### ASEAN Economic Ministers Meeting

At the 50<sup>th</sup> annual ASEAN Economic Ministers meeting in Singapore this month, the ministers approved two agreements that will continue to remove trade barriers and benefit ASEAN service providers and exporters. First was the 10<sup>th</sup> Package of Commitments for the ASEAN Framework Agreement on Services (AFAS) which is the final package of the services liberalization commitments of AFAS. Second was the amendment of the ASEAN Trade in Goods Agreement that will advance needed changes to the ASEAN self-certification scheme. The ministers also endorsed the ASEAN Agreement on E-Commerce that is scheduled to be signed in November 2018. This is expected to improve ASEAN's digital ecosystem and help monitor the region's digital integration progress.

#### Construction Growth

Experts believe that construction output in the ASEAN member states will expand 6% a year on average from 2018-2022 due to heavy regional investment in infrastructure and domestic demand driving the expansion of building construction across the residential and non-residential sectors. Reforms to encourage Public Private Partnerships (PPPs) in many ASEAN countries have also spurred construction growth in the region.

#### Singapore Watch

##### Blockchain Adoption

A recent survey by a multinational professional services network found that 8 in 10 Singapore companies were going through blockchain initiatives with 13% fully live and that 2 in 10 were in the research process. Singaporean firms identified lack of trust as the biggest deterrent to blockchain adoption and regulatory uncertainty as a big risk.

### Malaysia Update

#### Fake News Law Repeal

Malaysia repealed its "fake news" law that was enacted in April 2018 by the previous prime minister. The Anti-Fake News Act of 2018 was widely criticized as being a tool to suppress free speech and hamper critics from reporting on scandals such as 1Malaysia Development Berhad (1MDB). For what the government defined as fake news, fines of up to MR 500,000 (US\$ 122,000) and jail time of up to six years were possible.

### Myanmar News

#### Online Company Registration

The Myanmar Companies Act is now in force, so as of August 1, 2018, investors must register new companies online at the Myanmar Companies Online (MyCO) website according to the Directorate of Investment and Company Administration (DICA). Unfortunately, existing companies will also have to re-register on the MyCo website. The Ministry of Industry also announced that small and medium-sized enterprises (SMEs) must now register for SME Member Cards online.

### Indonesia Bulletin

#### Foreign Currency Limits

The Bank of Indonesia warned corporations and individuals that the limits on the amount of foreign banknotes that can be carried across the Indonesian border will be enforced starting September 2, 2018. Now, if carrying more than IDR1 billion (US\$ 67,000) in foreign currency, a fine of 10% of the total amount carried will be levied with a maximum fine of IDR300 million (US\$ 20,000).

### Laos News

#### Hydropower Projects

After a recent deadly dam collapse, Laos has decided to suspend new hydropower investments and review existing projects. Currently, Laos operates 46 hydropower plants with another 50 set to come online by 2020.

## **THAILAND LEGAL REVIEW**

### **Corporate Law News**

#### **DBD e-Certificate File**

The Department of Business Development (DBD) has launched a new electronic service, the DBD e-Certificate File. Under the service and at this initial stage, the DBD will provide e-Certificate issuance for any juristic persons registered with the DBD: registered ordinary partnership, limited partnership, limited company, or public limited company, at a cost of 200 baht per application. Information of said e-Certificate will contain basic corporate information including the name of the partner and amount of contribution, name of director, power of director, name of managing partner, limitation of power of managing partner, registered capital, and registered capital together with paid-up capital. However, information relating to dissolution registration and foreign companies under the Foreign Business Act B.E. 2542 is not yet available. The e-Certificate with the Registrar's digital signature will be deemed as an official copy and can be verified for accuracy through QR code or reference number via the DBD's website for up to one month from the issue date. Printouts shall be deemed as duplicates. The service started on August 15, 2018 and will be very useful as it will reduce travel time and expenses and cut down on paper consumption.

### **Immigration Update**

#### **New BOI Requirements**

On Friday, August 31, 2018, Thailand's Board of Investment announced new requirements for work permits and visas that will come into effect on September 1, 2018.

1) An Approved Position in the Single Window System will remain in the system after the cancellation of a foreign employee only if the job position is valid for more than 90 days. Previously, the job position was automatically removed when submitting a cancellation application for a foreign employee in the BOI E-expert system. Now, instead of having to spend the time requesting a new position, a company can hire a new employee to replace the same job title position and simply fill the new employee into the available position.

However, the replacement must be qualified for the job title position.

2) When filing a candidate nomination application under an Engineer position, the candidate must have an engineering degree. Other degrees are not acceptable.

3) When filing a candidate nomination application under Software, Programmer or any specific IT area positions, in addition to their education certificate, the candidate must submit any related software, programming, or IT certificates that relate to the job title approved by the Board of Investment.

### **Tax News**

#### **Expenses for Persons with Disabilities**

Revenue Department Order Por. 157/2561 Re: Expense according to Person with Disabilities Employment Act B.E. 2550 for Corporate Income Tax became effective on August 20, 2018. The new order amends the previous order and extends the definition of sub-contracting or services contracting for disability employment for public charity or public interest in relation to a) Government agencies relating to the National Government Organization laws, b) The Thai Red Cross Society, c) Monasteries, d) Hospitals affiliated with government sectors, or e) Government and private schools including institutions of higher education. From the aforementioned activities, employers and establishment owners are able to apply such expenses for the computation of net profits for corporate income tax.

#### **Tax Subsidy for Political Party Donation**

The Notification of the Director-General of Revenue Department on Income Tax Subsidy for a Political Party will come into force for the filing of personal income tax returns from the tax year B.E. 2562 (2019) onwards. The Notification prescribes the rules and procedures on tax subsidy relating to the Organic Act on Political Parties B.E. 2560 (2017). Under it, a tax payer with the declaration of intention of donation of tax payable to a political party must be an individual with Thai citizenship. However, such donation shall be made to a registered political party in that tax year with the

amount not exceeding tax payable or 500 Baht as the case may be.

### **Income Tax on Mutual Funds**

On August 28, 2018, the Cabinet approved the Draft of the Revenue Code Amendment Act as proposed by the Ministry of Finance on the levy of income tax from investment through mutual funds in the categories of interest, discount, or income assimilated to interest in order to create equality in the tax system as there is currently only tax collection on interest stemming from deposit or yield upon bond investment. Thus, any mutual funds established under the Securities and Exchange Act B.E. 2535 shall be subject to withholding tax at the rate of 15% of the aforesaid revenue. However, unit holders, whether individuals or juristic persons, will be exempted from income taxes for the share of profits deriving from mutual funds as tax paid.

### **Litigation Law Update**

#### **Labour Court Jurisdiction Changes**

According to the Royal Decree on the Change of the Jurisdiction of the Central Labour Court, the Labor Court Region 1, and the Labor Court Region 7 B.E. 2561, which comes into effect on October 1, 2018, the new court jurisdictions are as follows:

1. Labor cases which occur in Nonthaburi, Pathumthani, and Samutprakarn, except for Bangsaothong District, will now have to be filed and proceed at the Labor Court Region 1. Cases which are still ongoing at the Nonthaburi and Samutprakarn Branches of the Central Labor Court shall be transferred to the jurisdiction of the Labor Court Region 1. However, the Labor Court Region 1 will still use the Nonthaburi Branch and the Samutprakarn Branch locations as its workplace for considering the cases until the proceedings in the court of first instance are complete.

2. Labor cases which occur in Nakornpathom and Samutsakorn have to be filed and proceed at the Labor Court Region 7. Cases which are still on ongoing at the Samutsakorn Branch of the Central Labor Court shall be transferred to the jurisdiction of the Labor Court Region 7 which will still use the location of the Samutsakorn Branch as a workplace

until the proceedings at the court of first instance are complete.

Remark: The Labor Court Region 1 has jurisdiction over Chainart, Nonthaburi, Pathumthani, Phranakorn Sri Ayudhaya, Lopburi, Samutprakarn, Saraburi, Singburi and Arngthong.

The Labor Court Region 7 has jurisdiction over Kanchanaburi, Nakornpathom, Prachuab-keereekhan, Phetchaburi, Ratchaburi, Samutsongkram, Samutsakorn & Suphanburi.

The Central Labor Court will close the Branch Labor Courts in Nonthaburi, Samutprakarn, and Samutsakorn from October 1, 2018 onwards.

#### **Video Call System for Heritage Cases**

The Southern Bangkok Civil Court launched a new system, Inquiry for Heritage Cases via Video Call, as an additional convenient option for claimants as they will no longer have to go to the court for such inquiry. The claimant simply files a motion to check on heritage using the e-Form and the e-Filing system to submit all the needed documents, and if all heirs have given their consent, the parties can immediately request the inquiry via video call. After the inquiry via video call has been completed by hearing that the claimant is the interested heir of the dead person who meets all qualifications and that there is no respondent opposing the claim, the court will then render the order on appointing the claimant as a Heritage Administrator. The ordered document will be sent to the claimant via post within three working days.

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