

ASEAN TODAY

REGIONAL LEGAL & BUSINESS NEWS

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ASEAN Economic Community News

ASEAN Single Window

Thailand, Vietnam, Singapore, Malaysia and Indonesia launched the ASEAN Single Window (ASW) in 2018 and the remaining 5 ASEAN members are expected to implement it in 2019. The ASW is an integrated platform that facilitates trade through faster clearance of cargo and release of shipments. By connecting the National Single Window of each ASEAN country, the ASW synchronizes the single submission and processing of data and is a single point of approval for customs clearance of cargo. Under the ASW, physical certificates of origin will be digitized and this will reduce the waiting times for goods at borders to one to three days.

ASEAN Innovation Analysis

The international arm of the IP Office of Singapore (IPOS) released *The State of Innovation in ASEAN 2018* which is an overview and analysis of the invention patents filed by ASEAN applicants in the last 10 years. ASEAN had a total of 37,102 inventions based on global patent applications over the last decade and IPOS credits this to extensive government investment in driving technology R&D and to strong policies pushing IP cooperation and protection. ASEAN inventions covered 35 technology fields in different sectors with electrical engineering making up 43% of total output. IT methods of management were ASEAN's fastest growing field due to the global focus on the smart, digitized economy. The top innovative ASEAN member state was Singapore with 82% of the total regional invention output mostly in the electrical engineering sector. Indonesia was the leader in food chemistry innovations and Thailand led in inventions for the transport sector. Over the 10 year period, Vietnam had the highest growth in invention output, 37% per year.

Vietnam Update

New Cybersecurity Law

Vietnam's new cybersecurity law comes into effect on January 1, 2019 and places stringent rules and controls on internet companies operating within the country and online content. Internet companies must now open local offices in Vietnam and store local user data and provide the information to the government when requested. Additionally, internet companies must now remove any online content deemed "toxic" by the authorities.

Myanmar News

Foreign Insurance Providers

The Ministry of Planning and Finance (MOPF) announced that foreign insurance service providers can now operate in Myanmar. For life insurance, foreign insurers have the option of operating as a 100% wholly owned subsidiary or forming a joint-venture with a local life insurer. For all non-life insurance, foreign insurers must form a joint-venture with a local non-life insurance company.

Laos Bulletin

Economic Integration Woes

According to the Lao government, Laos is not fully benefiting from the regional economic integration and its trade with other ASEAN member states keeps declining. FDI from other ASEAN countries dropped from 41% in 2010 to 10% in 2017. Trade with other ASEAN members is down 10% and exports to ASEAN countries are down 22%.

Cambodia News

Bond Market

The country's first corporate bond was issued on the Cambodia Securities Exchange by a local microfinance institution this month and raised US\$30 million with the issue. Cambodia's first issuer of offshore bonds raised US\$290 million earlier this year. Regional banks expect the country's bond market will become fully established in 2019.

THAILAND LEGAL REVIEW

Immigration Update

Residence Certificate at OSSC

Newly issued work permit booklets and the Digital Work Permits no longer include the official residential address of the work permit holder and cannot be used as proof of residence when applying for a Thai driver's license or any other case that requires proof of residence. A Residence Certificate must be obtained from the Immigration Bureau. The following regulation concerning Residence Certificates will be effective on January 2, 2019 without an official announcement from the Immigration office at the One Stop Service Center (OSSC). Two types of foreigners are eligible to obtain a Residence Certificate:

TYPE 1: The applicant must first file a 90-day report before being eligible to request a Residence Certificate. The applicant must have Long-Term visa extension issued at the OSSC along with the one time filing of a 90-day report with the Immigration office at the OSSC.

TYPE 2: The Landlord or Lessor of the applicant must first file the notification of Residence of Foreigners (TM 30 Form) at the Immigration Bureau according to Section 38 of the Immigration Act before being eligible to request for Residence Certificate. The applicant must have a long-term visa issued at the OSSC and have held such visa for at least 3 months before being eligible to request a Residence Certificate. This type will be suitable for foreigners who travel in and out of Thailand often and are unable to file a 90-day report, i.e., have never been in Thailand for more than 90 days at a time.

To apply for a Residence Certificate, the applicant is required to be physically present at the OSSC. The current processing time is 10-15 working days. Upon issuance, an applicant can empower someone to collect the Residence Certificate letter on their behalf.

Corporate Law News

Additional Allowance for a Second Child

The Revenue Code Amendment Act (No. 46) is now in force and its purpose is to encourage married couples to have more children due to the current declining fertility rate in Thailand that will result in a diminishing youth dependency ratio and enlarge Thailand's aging society. To qualify for the second child allowance, a child must be a legitimate child of a taxpayer or a taxpayer's spouse and be born from 2018 onward. The additional allowance increases from 30,000 to 60,000 Baht. The 2018 tax return must be filed within January to March 2019.

Child Allowance		
	Before 2018	From 2018 onward
1 st Child	฿30,000	฿30,000
2 nd Child or more	฿30,000/each	฿60,000/each

Transfer Pricing

The Revenue Code Amendment Act (No. 47) will help prevent tax avoidance from profit transfer amongst large-sized enterprises associated with finance, management, or control. Significant points of the new Act include:

1. Any person who fails to comply or files inaccurate or insufficient documents or evidence without reasonable cause shall be subject to a fine not exceeding 200,000 Baht.
2. For companies or juristic partnerships that have corporate relationships and have set their own commercial or financial conditions for transfer pricing purposes, the tax assessment officer is empowered to adjust the income and expenses of said companies or juristic partnerships.

However, the related companies or juristic partnerships must be made up of any 2 or more of the legal entities as follows:

- A juristic person directly or indirectly that owns shares or is a partner of a juristic person of not less than 50% of the total capital;
- A shareholder or partner directly or indirectly holding shares in a juristic person of not less than 50% of its total capital that also holds or is a partner of

another juristic person, directly or indirectly, of not less than 50% of its total capital, or

- Juristic persons that have a relationship in finance, management, or any control operation in the manner that one juristic person may not act independently from another juristic person as prescribed by the Ministerial Regulations.

In addition, such related companies or juristic partnerships are eligible to claim a refund for additional taxes adjusted by the tax assessment officer within 3 years from the last tax filing, or within 60 days from the date such revision is received in writing from the assessment officer.

3. Related enterprises must prepare a record regarding information on such related enterprises and the total value of transactions between the enterprises in such accounting period and submit such information together with tax returns to the assessment officer. However, such related enterprises earning income during an accounting period of more than 200 million Baht are not required to comply with this section.

All of the above sections shall apply to income tax calculation from the accounting period starting on or after 1 January 2019 onward.

Additional Requirements for Qualified Representative for VAT Refund

The Revenue Department prescribed additional qualifications concerning the number of allowed service areas and the requirements for a qualified representative as follows:

1. The business must be a company or juristic partnership established under Thai law.
2. The paid-up registered capital starts at 25 million Baht.
3. The business must be a Value Added Tax (VAT) registrant with no illegal record regarding the issuance or use of tax invoices.
4. The business's license must state that one of its objectives is to be a representative to claim for VAT refund.
5. The business's action plan shall include:
 - Details on no more than 5 service areas located in the Bangkok Metropolitan Region. If a qualified representative has

already been approved to conduct this business before this Notification became effective and wants to increase its service areas, a request can be made in writing and submitted to the Director-General of Revenue Department through the Head of VAT Refund for Tourist Office. However, such service areas shall not exceed 5 areas.

- Details on all devices, tools, and electronic equipment, including basic computer systems for VAT refund service.
- Details on the VAT refund system linked to a passport reader which is able to instantly transfer any data in real time to the Revenue Department.

Tax Exemption on Donations made to Hospitals affiliated with Government Sectors

Under Royal Decree (No. 663), income tax exemption on donations made to hospitals affiliated with government sectors as defined by the Revenue Department shall apply from January 1, 2018 onward.

1. For an ordinary person, the tax allowance shall be double the donation amount. However, if such donation is included with a donation to support an educational project, the donation shall not exceed 10% of assessable income after deduction and allowance.

2. For a company or juristic partnership, the tax allowance shall be double the donation expense whether paid in cash or in assets. However, if such donation is included with a donation made to support an educational project or construction and maintenance expenses for playgrounds, parks, or grounds for sport owned by private sectors open as a public service with no charge or owned by government sectors, this donation shall not exceed 10% of assessable income before a deduction for public charity or public benefit and a deduction for education or sport.

In addition, income tax for an ordinary person or a company or juristic person shall be exempt from income received from property transfer or product sale or execution of instrument resulting from a donation made to a hospital. However, the transferor cannot deduct the cost of the assets or products as

an expense for the calculation of an ordinary person or a company or juristic person's income tax.

Reduction and Tax Exemption on Royalties for International Headquarters

Under Royal Decree (No. 666), income tax will be reduced or exempted for any royalties that an international headquarters earns from research and development occurring in Thailand by the following associated enterprises:

- Such royalties received from associated enterprises established under Thai law from July 1, 2018 onward will be granted an income tax reduction.
- Such royalties received from associated enterprises established under foreign laws from July 1, 2018 onward will be granted an income tax exemption.

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