

ASEAN TODAY

REGIONAL LEGAL & BUSINESS NEWS

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ASEAN Economic Community News

Renewable Energy Development

A new report by the ASEAN Center for Energy says that renewable energy development in ASEAN is currently in step with global renewable energy (RE) development. ASEAN's target for RE in the primary energy supply is 23% by 2025 and is at 12.4% as of 2016. Many ASEAN member states are increasing their efforts to develop RE programs; however, ASEAN as a whole heavily relies on oil, coal, and natural gas which accounts for 80% of the energy supply. The aim of the new report was to determine the current levelized costs of electricity for solar photovoltaic, hydropower, wind, biomass, and geothermal and 134 projects were evaluated in ASEAN. The report maintains that the costs of electricity generated from biomass and hydropower in ASEAN are comparable with electricity from conventional energy sources and that solar and wind also show promise.

World Air Quality Report

The 2018 World Air Quality Report says that 95% of Southeast Asia's cities exceeded the World Health Organization's (WHO) annual exposure guidelines for PM 2.5. The report analyzed air pollution data from 3,000 cities around the world from monitoring sources which measure and publish real time PM 2.5 concentrations. However, the ASEAN region suffers from a lack of government supported monitors that report real time data. Non-governmental monitors supply half of Southeast Asia's coverage. Four ASEAN countries provide no real time air quality data, Brunei, Laos, Malaysia, and Myanmar, and only non-governmental sources are available for Cambodia. The report says that air pollution sources vary in Southeast Asia for rural and urban areas with biomass burning, vehicular emissions, and transportation as the leading sources. It also states that there is a

strong correlation between urbanization and pollution in the region. Jakarta, Indonesia and Hanoi, Vietnam had the worst air quality in the ASEAN while Calamba, Valenzuela, and Carmona in the Philippines had the best.

ASEAN Capital Markets Forum

The ASEAN Capital Markets Forum (ACMF) endorsed a roadmap for promoting sustainable investment and launched a framework for cross-border publication of research this month. The roadmap contains key strategies and mechanisms to strengthen sustainable capital markets and provides clear directions for issuers, investors, disclosure, indices development, capacity, and interagency coordination. Regulators from Malaysia, the Philippines, Singapore, and Thailand also signed an MOU on a framework on cross-border publication of research reports. The framework will enable information flow on ASEAN capital market products and help promote professional mobility, increased investor participation, and regional connectivity.

Singapore News

IP Office Ranking

A leading global trade publication on trademarks has ranked the Intellectual Property Office of Singapore (IPOS) as the second most innovative intellectual property office in the world. The European Union Intellectual Property Office ranked first. The ranking described IPOS as an innovation agency that has a strong focus on providing education and support in business development. IPOS reports that over the last year, it has made significant progress in supporting innovative enterprises to leverage their tangible assets to grow their businesses and maintain Singapore's position as an IP hub. IPOS launched multiple initiatives in the last year including a fast track scheme to support fintech businesses anywhere in the world that allows for an accelerated patent process and as fast as 6 months.

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Myanmar Watch

Jade and Gemstones Tax Revenue Loss

Experts believe that Myanmar needs to seriously address the tax losses it incurs from the jade and gemstone mining industry. While jade and gemstones mined in Myanmar contribute billions to the annual GDP, tax revenue collection is limited. The government selectively overtaxes a small portion of the jade and gemstones, but many companies avoid payments by underreporting and undervaluing, and corruption is also a factor. Proposed reforms include revising fiscal terms with a clear and fair tax code, shifting to production-based taxes, uniform tax application across all business entities, and strengthening the enforcement of tax collection. Additional reforms include restructuring the valuation and permit processes with open bidding and multiple, independent valuations, and strengthening oversight on mining operations.

Indonesia Update

Logistics Performance

Since 2016, Indonesia has moved up 17 spots on the World Bank's Logistics Performance Index and placed at 46th for 2018. One of the reasons for Indonesia's advancement is the massive infrastructure projects by state-owned enterprises (SOEs) over the past 4 years to improve connectivity between land, air, and sea. 1800 kilometers of toll roads will be constructed in 2019, up from 1250 kilometers in 2018. Additionally, 27 new commercial ports have been built along with seven new airports. The government has increased infrastructure spending from IR388 trillion in 2017 to the projected IR415 trillion for 2019.

Cambodia Bulletin

Riel News

Cambodia's General Department of Taxation now requires all taxpayers to show the total amount of their tax invoices in Cambodian Riel, effective April 1, 2019. While the total amount must be in Riel, taxpayers can still use either Riel or US dollars as the base. Everyone pays their taxes in Riel, but most taxpayers display their invoices in US currency as they generally obtain foreign currency for their customers. The National Bank of Cambodia

(NBC) expects to see an increase in the use of Riel in the Cambodian economy as it is used more for large transactions. However, use of the US dollar is expected to increase the same amount resulting in the market share of the Riel in Cambodia's GDP staying at 10%. Financial institutions, especially commercial banks, continue to offer loans in US dollars while micro-financial institution loans in Riel continue to rise.

Laos News

Kunming-Vientiane Railway

Laos announced that the Kunming, China to Vientiane, Laos rail line has been completed halfway and is tentatively scheduled to begin service in December 2021. As part of China's Belt and Road Initiative, China will pay for 70% of the railway while Laos will borrow the remaining 30% from Chinese financial institutions. Laos hopes the new rail link will foster closer connectivity for the country in Asia and generate development like industrial parks, hotels, and tourism businesses that will create new sources of income for the country. Journey costs on the new rail line will be 40% less than using roads on the same route.

THAILAND LEGAL REVIEW

Immigration News

Notification of Residence TM 30

The Immigration Bureau at Chaengwattana announced new regulations regarding the Notification of Residence of Foreigners (TM30) that went into immediate effect on March 28, 2019. The Immigration Bureau uses the TM 30 as a mechanism to track and update the addresses of foreigners in Thailand. At this time, for persons who do not have an official receipt for the Notification of Residence of Foreigners (TM30), the Immigration Bureau at Chaengwattana will not provide the following services:

- All types of visa extension applications, both first-year and renewal applications
- 90-day reporting
- Multiple Re-entry Permits

For the Notification of Residence of Foreigners (TM30), the owner of the house, the lessor, or the owner of the hotel or residence is responsible for notifying the

Immigration Office in the concerned area within 24 hours from the time of the foreigner's arrival. For failure to do so, the owner of the house, the lessor, or the owner of the hotel or residence shall be imposed a fine not exceeding Baht 10,000. Please see Section 38 below

Although the reporting process is the responsibility of the owner or lessor of the residence and foreigners are not liable, they must ensure that the Notification of Residence of Foreigners (TM30) has been completed. Otherwise, their applications will be declined or it may cause delays for their applications.

Starting March 28, 2019, all foreigners who plan to file the above applications at the Immigration Bureau at Chaengwattana must ensure that the owner or lessor of their residence has completed the notification process and properly filed the form TM 30 with the Immigration Bureau. Without the official TM30 receipt, any of the above applications filed by a foreigner will be rejected or delayed.

As of now, this Announcement is applicable and required by the Immigration Bureau at Chaengwattana Bangkok and the Provincial Immigration Offices in Samuthprakarn, Chonburi, and Nonthaburi Provinces. However, we see the possibility that these rules might be adopted by other Immigration Offices countrywide and at the One Stop Service Center.

Filing the TM 30

There are three ways an owner/lessor can file the TM 30:

1. Filing directly at the Immigration Bureau or related Immigration Office located in the area of residence. The Immigration officer who accepts the TM 30 form will return an official receipt. The foreigner must request a copy of the official receipt from the owner/lessor. The foreigner only needs a copy which can then be copied whenever needed.
2. File by registered post mail (at the Post Office). The foreigner must a copy of the post mail registration receipt and copy of TM 30 request that the owner/lessor.

3. File by internet. **Note:** The notifier must first register at www.immigration.gov.th and obtain a username and password before being able to do this online. The foreigner must request a copy of the online proof/ acknowledgment after the owner/lessor successfully files the TM 30 in the Immigration Department system. A printout of the screenshot is required.

A Lease Agreement is not required as part of the Notification. The needed documentation to file the TM 30 is the completed Form TM 30 and a copy of the foreigner's passport I.D. page, latest entry page, and immigration departure card.

Filing the TM 30 is a one day process and the owner/lessor may file the Notification TM 30 for more than one foreigner at a time. For example, the owner/lessor may file the TM 30 for a foreign worker and their family at the same time if they enter Thailand on the same day. The key point is that filing the TM 30 must be completed within 24 hours from the date of entering Thailand.

The relevant provisions of law regarding TM 30 Section 38 and Section 77 of the Immigration Act B.E. 2522 (1979):

Section 38: *The housemaster, the owner or the possessor of the residence, or the hotel manager where the alien, receiving permission to stay temporary in the Kingdom has stayed, must notify the competent official of the Immigration Office located in the same area with that hours, dwelling place or hotel, within 24 hours from the time of arrival of the alien concerned. If there is no Immigration Office located in that area, the local police official for that area must be notified.*

In the case the house, dwelling place, or hotel where the alien has stayed under provision of Para.1 is located within the Bangkok area, such notification must be reported to the competent official at the Immigration Division.

Making notification, in reference to the Para 1 and 2 of this Section, must comply with regulations prescribed by the Director General.

Section 77: *Whoever fails to comply with the provision of Section 38 shall be punished with a fine not exceeding 2,000 Baht. If said person is a hotel manager, he shall be punished with a fine from 2,000 Baht to 10,000 Baht.*

Taxation Update

New Land and Building Tax Act

The new Land and Building Tax Act B.E. 2562 (2019) (the "Act") became effective on March 13, 2019. However, tax imposition will only come into force starting January 1, 2020 onwards.

The Building and Land Tax Act B.E. 2475 (1932), the Local Development Tax B.E. 2508 (1965), the Announcement of the National Executive Council No. 156 dated June 4, 1972, Determine of the Median Value of Land for Local Taxation Assessment B.E. 2529 Act, and any amendments of the said laws will be replaced by the new Act.

Under the new Act, a taxpayer, which includes an ordinary person or a juristic person who owns or occupies land or buildings as of January 1 of each year, shall be responsible for a tax payment according to a notice of tax assessment to the authorized Local Government Organization, i.e., Municipality, Sub-District Administrative Organization, Bangkok Metropolitan Administration, or Pattaya City, as the case may be, by April 30 every year.

A summary of tax collection under new ACT:

1. The tax base for calculation of the land and building tax herein is the total value of the land and buildings appointed and assessed by the Treasury Department, and on the same basis as the collection of the registration fee for the transfer of ownership and juristic act under the Land Code B.E. 2497 (1954).

2. There are 4 ceiling tax rates based on land or building utilization:

Purpose of Utilization	Ceiling Tax Rate
(1) Agriculture	0.15%
(2) Residence	0.30%
(3) Other purpose apart from (1) and (2)	1.20%

(4) Vacant/ Non-Utilized Land	1.20%
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Remark: If said vacant land has no utilization for an uninterrupted period of 3 years, the tax rate in the fourth tax year increase by 0.3% (1.20+0.3=1.5%) and shall continue to increase by 0.3% every 3 years if there is no utilization. However, the overall increase shall be limited to 3%.

3. Tax exemptions for taxpayers under the new Act include:

- a) An ordinary person who owns land and buildings with an appraisal value not exceeding 50 million Baht for agricultural purposes.
- b) An ordinary person who owns both land and buildings with an appraisal value not exceeding 50 million Baht for residential purposes, and whose name appears in the household registration certificate as of January 1 in such year.
- c) An ordinary person who owns only buildings with an appraisal value not exceeding 10 million Baht for residential purposes, and whose name appears in the household registration certificate as of January 1 in such year.

4. All tax payments must be made by the end of April of every taxable year. A delay in payment shall be subject to a penalty together with an additional surcharge as follows:

a) The penalty shall be at 40% of the tax debt. However, in the case of paying such penalty prior to receiving a late payment letter issued by the Local Government Organization, such penalty shall be reduced to 10% of tax debt, or to 20% of tax debt in the case such late payment is made in due time as prescribed in a late payment letter.

b) Furthermore, a surcharge of 1% of the tax debt for each month will be applied, but in the event that the due date extension of late payment approved by the Local Government Organization and late payment made in such extension period, the surcharge shall be at 0.5% per month.

5. The tax rate for the first 2 years, starting from January 1, 2020 onwards, for the land and buildings tax pursuant of this Act is as follows:

>75-100 million	0.05%
>100 million	0.10%

1) Agriculture

Appraisal Value (Baht)	Tax Rate
<75 million	0.01%
>75-100 million	0.03%
>100-500 million	0.05%
>500-1,000 million	0.07%
>1000 million	0.10%

Remark: An ordinary person who owns land and buildings for agricultural purposes will be exempt from the land and buildings tax for the first 3 years of tax collection.

2) An ordinary person who owns both land and buildings for residential purposes and whose name appears in the household registration certificate under the laws concerning civil registration

Appraisal Value (Baht)	Tax Rate
<25 million	0.03%
>25-50 million	0.05%
>50 million	0.10%

3) An ordinary person who owns only buildings for residential purposes and whose name appears in the household registration certificate under the laws concerning civil registration

Appraisal Value (Baht)	Tax Rate
<40 million	0.02%
>40-60 million	0.03%
>60-90 million	0.05%
>90 million	0.10%

4) Other residential purposes apart from 2) and 3)

Appraisal Value (Baht)	Tax Rate
<50 million	0.02%
>50-75 million	0.03%

5) Other purposes apart from agriculture and residence

Appraisal Value (Baht)	Tax Rate
<50 million	0.3%
>50-200 million	0.4%
>200-1,000 million	0.5%
>1,000-5,000 million	0.6%
>5,000 million	0.7%

6) Vacant/Non-Utilization

Appraisal Value (Baht)	Tax Rate
<50 million	0.3%
>50-200 million	0.4%
>200-1,000 million	0.5%
>1,000-5,000 million	0.6%
>5,000 million	0.7%

Online Transaction Report to the Revenue Department

Revenue Code Amendment Act (No. 48) (the "Act") came into effect on March 21, 2019 and will facilitate and provide e-Payment and e-Filing to taxpayers according to the National e-Payment Master Plan, and increase tax collection efficiency from online transactions by the Revenue Department (RD).

Entities responsible for reporting customer transactions to the RD by the end of March every year under this Act include:

1. Financial institutions under the laws concerning financial Institutions business.
2. State financial institutions under specific laws.
3. E-Money service providers under the laws concerning payment systems.

Such transaction to be reported to RD shall be within the scope of the following requirements:

1. All accounts jointly receiving more than 3,000 deposits or money transfers; or
2. All accounts jointly receiving more than 400 deposits or money transfers, together with an aggregate amount of deposits or money transfers starting THB 2,000,000.

Persons in charge of reporting transactions who contravene or fail to provide information on customer transactions to the RD under this ACT, may be subject to administrative penalties of a fine of not exceeding THB 100,000 plus THB 10,000 per day throughout the period of such contravention or failure, as ordered by the Director-General of RD.

Remark: The said reporting is required to be submitted to the RD for the first time on March 31, 2020

Annual Filing 2019

All Thai limited companies and partnerships including foreign juristic companies that are conducting business in the Kingdom and whose fiscal year ended on December 31, 2018, must prepare and have their audited financial statements be approved by their shareholders within 4 months from the fiscal year ending (i.e. April 30, 2019) and submit the audited financial statements to the authorities as follows:

1) Department of Business Development (**DBD**): Related official forms (SBC 3 and SBC 3/1 Forms) and the list of shareholders as at the shareholders meeting date including the audited financial statements must be submitted via DBD's e-filing system within one (1) month from the shareholders meeting date.

2) Revenue Department (**RD**): Related Corporate Income Tax Return and audited financial statement and tax payment must be submitted and paid **within 150 days from the fiscal year end** (i.e. May 30, 2019) to the RD or via the RD's e-filing system.

Penalties:

DBD: Any company that fails to comply with such requirement may be subject to a fine not exceeding Baht 50,000.

RD: A fine of 2,000 Baht for late filing. In addition, a surcharge of 1.5 % per month will

be imposed on the amount of tax to be made (if any).

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