

# ASEAN TODAY

## REGIONAL LEGAL & BUSINESS NEWS

September 2020

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### ASEAN Economic Community News

#### 50<sup>th</sup> ASEAN Ministers Meeting

Two agreements signed at the recent 50<sup>th</sup> ASEAN Economic Ministers meeting will benefit ASEAN exporters and service providers. The first was the amendment of the ASEAN Trade in Services Agreement (ATIGA) that implements the ASEAN-Wide Self-Certification Scheme (AWSC). Under the AWSC, certified exporters can self-certify the origin of their goods and do not have to apply and pay for a hardcopy certificate of origin (CO). The second agreement was the protocol to implement the 10<sup>th</sup> and final package of commitments for the ASEAN Framework Agreement on Services (AFAS). Originally signed in 1995, AFAS has progressively reduced or eliminated restrictions on trade in services. The final package of commitments will make it easier for ASEAN service providers to participate in previously closed sectors including logistics, air & maritime transport, telecommunications, and computer services.

#### Digital Readiness Survey

A multinational banking and financial services corporation released its survey of the digital readiness of businesses in the Asia-Pacific region. 99% of the businesses surveyed said they were facing external pressures to transform digitally and 45% indicated they have well defined digital strategies in place. The pressures to transform included a more competitive marketplace characterized by supply chain disruptions and the COVID-19 pandemic accelerating the pace of digitalization.

#### Inclusive Business Summit

The Guidelines for the Promotion of Inclusive Business in ASEAN were released this month at the Third ASEAN Inclusive Business Summit in Bangkok. The Guidelines will serve as an outline on how to support inclusive

businesses at all levels and the institutional requirements to do so. Government officials and business leaders met at the Summit to advocate for inclusive business strategies that support micro, small and medium-sized enterprises (MSMEs) to recover from economic setbacks brought about by the continuing COVID-19 pandemic. An inclusive business is a sustainable business that keeps its for-profit nature and contributes to poverty reduction through the inclusion of low-income communities in its value chain.

### Singapore News

#### Patent Cooperation Treaty

Applicants from the Republic of Korea and Laos can now choose use the Intellectual Property Office of Singapore (IPOS) as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) when filing patent applications under the Patent Cooperation Treaty (PCT). Korea and Laos join a group of countries including Brunei, Cambodia, Indonesia, Japan, Mexico, Thailand, Vietnam, and the United States that has appointed IPOS as an ISA/IPEA. One unique benefit of using IPOS as an ISA/IPEA is that it can conduct patent searches and cover prior art documents in both English and Mandarin.

### Myanmar Watch

#### 2020 Union Taxation Law

Myanmar published its 2020 Union Taxation Law (UTL) earlier this month which sets the latest rates for income tax, gemstone tax, commercial tax, and specific goods tax. The 2020 UTL comes into force on October 1, 2020 and is applicable to September 30, 2021. Corporate and personal income tax rates and capital gains tax rates will remain the same during this period, while the tax rate for undisclosed sources of income increased.

### Laos News

#### Revised Law on Land

When the latest version of Laos' Law on Land comes into effect, foreigners will be able to purchase and own condominiums in Laos. Previously, it was difficult for foreigners to purchase real estate because there was no supporting legislation. Under the revised law, foreigners can also own land use rights under

land lease and concession agreements with Lao citizens and the government, but land ownership rights are limited to 30-50 years.

## **Vietnam Update**

### **Supporting Industries Promotion**

Vietnam approved Resolution 115/NQ-CP to promote the development of supporting industries from 2020-2030. To capitalize on today's global marketplace, supporting industries needed to improve in order to attract new investment capital and production relocation to Vietnam. The resolution sets out targets for the country's supporting sectors to be more competitive in providing supporting products for the manufacturing sectors. The resolution maps out a comprehensive approach to improve both administrative policies and enhance the private sector's capabilities through training and incentives. The government is also working on synchronizing different mechanisms across upstream and downstream industrial activities.

## **Malaysia Bulletin**

### **Digital Consumers**

A global management firm and one of the world's biggest social media companies released a study on digital consumers in Southeast Asia. According to the study, 70% of Southeast Asian consumers will go digital by the end of 2020 and the total number of digital consumers in Southeast Asia is expected to reach 310 million this year. Malaysia has the highest percentage of digital consumers in Southeast Asia at 83% of its population aged 15 years and older. The study says that Malaysian consumers were not only spending more year on year, but were also buying into more categories online.

## **Indonesia Watch**

### **Tax Avoidance Solution**

As part of the country's latest effort to fight tax avoidance, Indonesia's Taxation Directorate General (TDG) announced that it has signed a memorandum of understanding (MOU) with the Australian Taxation Office (ATO) to exchange tax information automatically under the double tax treaty between the two countries. The TDG will now receive information related to income

received by Indonesian taxpayers from Australian tax subjects and help fight tax avoidance by tax payers underreporting their income and assets abroad. The TDR says the information will be used to implement compliance risk management and law enforcement and ensure compliance by Indonesian taxpayers.

## **Cambodia News**

### **EU Rice Tariff Overturned**

Earlier this year, Cambodia and the Cambodian Rice Federation (CRF) took the European Commission to court over its decision to reintroduce import duties for Indica rice from Cambodia for 3 years. However, the European General Court rejected the European Commission's (EC) request to reject the complaint this month. The EC then changed the legal situation of the Kingdom of Cambodia as a country benefiting from the full suspension of Common Customs Tariff duties.

## **THAILAND LEGAL REVIEW**

## **Immigration News**

### **Extension of State of Emergency**

The Thai Cabinet decided to officially extend the State Emergency Decree for one more month **until October 31, 2020**. The extension was necessary because the Coronavirus is still spreading in many other countries around the world and infections continue to rise. Certain countries are still in lockdown and this impacts international travel.

### **Amnesty Visa**

The Ministry of Interior issued Ministerial Announcement dated September 30, 2020 that governs "Permission to allow certain foreigners to stay in the Kingdom as per the special circumstance." Our summary of Announcement:

1.1 The Immigration Bureau will extend the Amnesty visa period and allow automatic visa extension to be in force until October 31, 2020. Foreigners whose visas (ALL types of visa holders) have expired will be eligible to receive permission to obtain automatic visa extensions until October 31, 2020 without penalty.

1.2 The visa amnesty shall be applicable to foreigners whose visas were previously issued under the Petroleum Act, the BOI Act, and the IEAT Act. This means foreigners under these categories (DMF, BOI and IEAT Approval) who have visas that have expired will be eligible to receive permission to obtain automatic visa extensions until October 31, 2020. Thus, the proper extensions should be made and completed before October 31, 2020 to avoid penalty.

1.3 For extending the period for filing 90-day reports, the same rule shall apply as 1.1 above. This means those whose 90-day reports are overdue shall be eligible to extend the period of filing until October 31, 2020 without penalty nor being considered as delayed filing.

### Special Tourist Visa (STV):

In order to boost and restore Thailand's Tourism Economy, the Ministry of the Interior issued a Ministerial Announcement dated September 29, 2020 that governs the Special Tourist Visa (STV). Here is the summary of the Announcement:

1. Foreign Tourists who wish to apply for STV must have the following qualifications:

1.1 Intend to enter Thailand for a long stay for tourism and pleasure **and** must come from low-risk countries which are rated and designated by the Ministry of Public Health.

1.2 Agree to follow any measures for COVID-19 control governed by the Ministry of Public Health and agree to be in an Alternative State Quarantine (ASQ) for not less than 14 days.

1.3 Have proof/evidence for accommodation:

1.3.1 Evidence of hotel reservation payment to stay in ASQ hotel.

1.3.2 Have any of the followings evidence to demonstrate where the foreign tourist will be staying after ASQ:

1.3.2.1 Evidence of hotel reservation payment where the foreign tourist will stay after the ASQ hotel.

1.3.2.2 Condominium Title Deed which belong to the

foreign tourist; OR family members of the foreign tourist.

1.3.2.3 Lease Agreement of the premise where the foreign tourist will be staying.

1.4 Having a Thai Health Insurance Policy for health and accident coverage of not less than Baht 40,000 for outpatient and not less than Baht 400,000 for in-patient. The insurance policy must cover the entire duration of stay in Thailand.

2) If having qualifications per item 1 above and having the medical certificate confirming that COVID-19 is not detected, the foreign tourist will be eligible to apply for a Special Tourist Visa at a Thai Embassy overseas. The visa fee is equivalent to Baht 2,000. The foreign tourist will be granted a 90-day visa upon entering Thailand.

3) Before the 90-day STV visa expires, the foreign tourist is eligible to apply for an extension at the Immigration Bureau for another 90 days. The Immigration Bureau will permit a total of two extensions at maximum (a 90-day extension at a time). **Note: STV holders shall not be allowed to change or convert the STV to any other visa types while in the country.** The Immigration Bureau will designate the rules for STV visa extension at a later date.

4) This Announcement shall be effective from September 30, 2020 until September 30, 2021.

### News from the Center for COVID-19 Situation Administration (CCSA) – 6 Groups of Foreign Travelers

On September 28, 2020, the CCSA said that it had approved reopening the country's borders to welcome foreign visitors, both short and long-term, in order to help stimulate Thailand's economy. The Government will permit foreign travelers from the six categories listed below to enter the country. However, they must abide by the strict 14 day ASQ measure and certain other measures on disease control. The 6 groups are as follows:

1. Foreign athletes who will participate in the Chalerm Prakit International Cycling Race from Samut Songkhram to Suratthani on October 6-16. The group will be under 14 days' state quarantine at a local hotel.

2. A group of 340 Thai Airways pilots and cabin crew on the repatriation flight to Thailand. The group will be under state quarantine as they operate in the US.

3. Holders of non-immigrant types of visa who are business people without a work permit and are willing to enter Thailand for business purposes by providing a six-month bank statement equivalent to at least 500,000 baht.

4. Holders of the Special Tourist Visa which the Prime Minister will discuss with the Ministry of Tourism and Sports and the Ministry of Foreign Affairs and related agencies for the policy. **Please see note below.**

5 Approximately 100,000 of the Asia Pacific Economic Cooperation (APEC) Business Travel Cardholders from low-risk countries such as New Zealand, Australia, Singapore, Malaysia, South Korea, Japan, China, and Hong Kong.

6. Foreigners who wish to stay in Thailand for 60 days can extend the duration for an extra 30 days by providing a six-month bank statement, equivalent to at least 500,000 baht, to the Ministry of Foreign Affairs for permission.

**Note:** 1 of the 6 categories i.e. Special Tourist Visa (STV) has been officially implemented as per the Ministry of Interior Announcement as mentioned above. The remaining categories are still under discussion among the related Government Agencies. The office of Dej-Udom & Associates will follow up the news and will update you when we hear more on official Announcement and Regulations.

## Corporate Law News

### Update on Social Security Fund Rates

The Notification of the Ministry of Labour regarding the criteria, methods, and condition of reduction of contribution rates for employers and the insured during the COVID-

19 pandemic was published in the Royal Gazette on September 14, 2020. Now, the contribution rates submitted to the Social Security Office will be reduced again from September to November from 5% to 2% for employers and the insured under Section 33, and from 432 Baht to 96 Baht for the insured under Section 39. The summary of contribution rates is as follows:

Month	Employer	Insured under Section 33	Insured Under Section 39
January	750	750	432
February	750	750	432
March	600	150	86
April	600	150	86
May	600	150	86
June	750	750	432
July	750	750	432
August	750	750	432
<b>September</b>	<b>300</b>	<b>300</b>	<b>96</b>
<b>October</b>	<b>300</b>	<b>300</b>	<b>96</b>
<b>November</b>	<b>300</b>	<b>300</b>	<b>96</b>
December	750	750	432

### Repeal of Juristic Person Data Use Requirements

According to the Notification of the Revenue Department of August 31, 2020, on the use of juristic person data, copies of (i) Certification of juristic person, (ii) Memorandum of association, and (iii) List of shareholders are no longer required for any operation involving the Revenue Department. In this regard, the Revenue officers will be responsible for the adoption of such data linked with the Department of Business Development via their network instead of duplication

### No Change to VAT Rate

The Royal Decree regarding VAT reduction (No. 715) became effective October 1, 2020, and the VAT rate of 7% (VAT 6.3% with local tax 0.7%) will remain for one more year from October 1, 2020 to September 30, 2021, for all sales of goods, services, and imports. The standard VAT rate is 10% as prescribed in the Revenue Code.

### Price Disclosure Duties for E-Commerce Marketplace Sellers

Referring to the duties of the Central Committee on the Price of Goods and Services to reconsider measures at least once a year for the disclosure of prices and details for goods and services via e-commerce marketplace, the former notification has been repealed and replaced by Notification (No. 70) B.E. 2563, dated July 1, 2020. The details prescribing the duties for e-commerce marketplace sellers remain unchanged and are summarized as follows:

- Disclosing the price of goods and services, including categories, features, size, weight, and any related details, in a manner of being clear and easy to understand
- Prices shall be displayed in Arabic numerals
- Content shall be in at least Thai language
- Any related expenses other than the price of goods and services shall be clearly notified

Any e-commerce marketplace sellers who fail to comply with this prescription of disclosure shall be liable for a fine of up to THB 10,000 (e.g., sellers who deliberately reveal prices only through a Direct Message), and whistleblowers who inform such failings to the Department of Internal Trade will also receive up to 25% of such fine.

### Extension for the Payment of Land and Building Taxes (Our scope will only focus on the 50 administrative districts in Bangkok)

On August 28, 2020, the Governor of Bangkok issued the Announcement granting an additional extension of time for making land and building tax payments for any taxpayers who own or occupy land or buildings and are liable for such payment under the Land and Building Tax Act B.E. 2562 (2019). The summary of such extension is as follows:

In General	1 <sup>st</sup> Extension*	2 <sup>nd</sup> Extension
By the end of April of every taxable year	Within August 31, 2020	Within <b>October 31, 2020</b>

Moreover, in case of making tax payment in installments, the extension will be as follows:

	1 <sup>st</sup> Payment	2 <sup>nd</sup> Payment	3 <sup>rd</sup> Payment
<b>In General**</b>	Within April of every taxable year	Within May of every taxable year	Within June of every taxable year
<b>1<sup>st</sup> Extension*</b>	Within August 2020	Within September 2020	Within October 2020
<b>2<sup>nd</sup> Extension</b>	<b>Within October 2020</b>	<b>Within November 2020</b>	<b>Within December 2020</b>

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