



Legal/Tax News Update Thailand

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June 2017

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Inside This Issue:

1. FBL no longer required for Government Contractors and Representative Office
2. New Customs Act
3. The new E-Work Permit
4. BEPS – Multilateral instrument to implement BEPS changes signed

The legal framework for investments in Southeast Asia is constantly changing; we would therefore like to update you on the most recent developments:

1. Foreign Business License no longer required for Government Contractors and Representative Office

On 9 June 2017, a new Ministerial Regulation of the Ministry of Commerce came into effect, exempting service business under a contract with a government authority or public enterprise as well as foreign juristic person's representative offices in the area of international trade business from the requirement to apply for a Foreign Business License. This change has been long overdue, since the Foreign Business License application process was very time-consuming and posed a significant market entry barrier.

The investor/contractor is now only required to notify its business operation to the Ministry of Commerce to obtain a registration number. Apparently, the process will only take one day (*whereas the previous application process took approx. 4 to 6 months*). For B2B contracts, however, the regulations **on branch registrations** remain unchanged.

2. New Customs Act

The new Customs Act B.E. 2560 (2017) was published on 17 May 2017 and will come into effect on 13 November 2017, replacing the current Customs Act from 1926, which has long been outdated in many aspects.

Key amendments include:

- elimination of liability presumptions
- decrease of criminal fines (*previously 4x the combined price of good plus duty, now 0.5 – 4x the evaded duty amount*)
- decrease of whistleblower rewards and cap at THB 5 million

The previous regulations with uncapped rewards for whistleblowers and audit teams and with excessive fines for taxpayers in case of wrongdoings sometimes led to an overly aggressive approach of the customs authorities and in many cases forced taxpayers into settlements with the authorities. The new Customs Act will make business in Thailand more predictable.

3. The new E-Work Permit

The Ministry of Labour issued a Ministerial Regulation, effective 1 April 2017, for the implementation of so-called “*E-Work Permits*”. These credit card sized ID cards shall replace the current paper work permit (the so-called “blue book”). The E-Work Permit will contain the information currently contained in the blue book, plus additional security and fraud prevention features, and a copy of such data can also be downloaded to the applicant’s mobile device.

In a first stage, the E-Work Permit will only be available to employees of companies promoted by the Board of Investment. The first E-Work Permits are expected to be issued as early as October 2017.

The above changes are good examples for the government trying to ease business for foreign investors, which was in fact overdue in view of the massive infrastructure investments in the next 10 years.

4. BEPS – Multilateral instrument to implement BEPS changes signed

68 states, including Germany, Austria, China, Hong Kong and Singapore, have signed a multilateral agreement to implement the OECD recommendations to counter “Base Erosion and Profit Shifting” (**BEPS**). The multilateral agreement will ease the process of adjusting the tax treaties in effect between the signatories. Hence, the German Federal Ministry of Finance estimates that the adjusted tax treaties will be in effect from 2019 onwards. Companies organized under tax optimization schemes (for instance artificial avoidance of permanent establishments) should analyze and adjust their structures to ensure compliance with the BEPS recommendations.

*We hope that the information provided in this brochure was helpful for you.
If you have any further questions please do not hesitate to contact us.*

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