



## Legal Update Week 47 - 48 (16– 29 November 2020)

### Thailand legal news

#### Highlights:

- New RD online system connecting the foreign tax payer's data with the Immigration Office
- New Ministerial Reg. prescribing the procedures, required documents for establishing Sub-ingsit
- New Notification on a guideline for consideration of unfair trade between digital platform service provider receiving and delivering food with restaurant operator

#### ● 18 November 2020:

- The RD launched a new system connecting the data of the foreign taxpayer working in Thailand with the Immigration Office. The taxpayer must give the consent via the RD website for transferring the tax payment form (Por. Ngor. dor 1, Por. Ngor. dor 90, Por. Ngor. dor 91 and Por. Por. 30) directly to the Immigration Office as supporting documents for a visa extension application.

#### ● 19 November 2020:

- The Centre for Economic Situation Administration (CESA) approved the stimulus measure worth THB 20 million proposed by the Tourism Authority of Thailand (TAT) to subsidize the transport expenses to foreign tourists. The program is expected to operate between December 2020 and March 2021.

#### ● 19 November 2020:

- The Office of the Ombudsman decided to submit a petition on the Hopewell case to the Constitution Court to rule on whether the resolution of the Supreme Court's arbitration tribunal delivered on 27 November 2003 is consistent with the constitution. The Ministry of Transport claimed that the

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resolution was not submitted to the parliament for approval and not published in the Royal Gazette.

- **20 November 2020:**

- The BOI prepares measures to support Japanese investors seeking to find Thai SME business partners by setting up the company database and grouping the SME lists based on their performance.

- **23 November 2020:**

- Thailand's National Vaccine Institute announced the medical progress on the Covid-19 vaccine. Two of seven vaccine trials have been successful on the animal test and ready to enter the human trial phase in April 2021.

- **27 November 2020:**

- The Transport Ministry announced that they are planning to develop and build the railways to completely connect all regions by 2028, as the transport and logistical hub of ASEAN. The project covers dual-track and high-speed train links.

## New Cabinet resolutions

- **17 November 2020:**

- **Approved Draft:** Draft Act amending of Penal Code (Issue no. ...) B.E. ... (Abortion penalty)
  - Amends Section 301 of the Penal Code that only the abortion for the gestational age of more than 12 weeks will be penalized, in order to comply with the Constitutional Court Ruling No. 4/2563.
  - Extend the exclusion clause under Section 305 allowing the abortion for reasons such as pregnancy due to sexual

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offenses, or if the baby has a high chance to be born with a severe physical or mental disability.

- **Approve Draft:** Draft Ministerial Regulation prescribing the application form for approval, license, certificate, order, and notification form in accordance with the Building Control Act B.E. ... and Draft Ministerial Regulation prescribing the rules, procedures, and condition of the application for the permission, permit, renewal of a license, transfer of license, certificate issuance, and substitute for a license in accordance with the Building Control Act B.E. ...
  
- **23 November 2020:**
  - **Approved Draft:** Draft Ministerial Regulation prescribing load capacity, resistance, and durability of buildings, and bearing capacity of soil supporting buildings in seismic resistance B.E. ...
  - Determine the area with earthquake risk, types of buildings, and amend the conditions of the design and design calculations.
  
  - **Approved Principle:** a guideline for improving efficiency and quality of the foreign workers' service management
  - Outsource of the private sector to provide the work permit application acceptance service and e-WorkPermitOS with the electronic system as described by the Ministry of Labour. For example, establishing 45 one-stop service centers, enabling mobile application system for all types of approval, etc.

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## Government Gazette Update:

Date	Part	Subject
16 November 2020	Kor	<ul style="list-style-type: none"><li>• Min. Reg. issue no. 369 (B.E. 2563) in accordance with the Revenue Code re: the adjustment of income and expense of the related companies or partnerships</li><li>- Prescribes the definition of the related companies or partnerships which means the related companies or partnerships under Section 71 bis paragraph 2.</li><li>- Prescribes the characteristics of a company or partnership deemed re transfer pricing.</li><li>- Prescribes the procedures for adjustment conducted by the tax assessment officer</li><li>- <u>Effective date:</u> 17 November 2020</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/095/T_0001.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/095/T_0001.PDF</a></p>
18 November 2020	Kor	<ul style="list-style-type: none"><li>• Min. Reg. re: the application for Sub-ingsit establishment and abolishment, the issuance of the certificate, substitute certificate and repealation of the certificate of Sub-ingsit B.E. 2563</li><li>- Prescribe the procedures, required documents for establishing Sub-ingsit.</li><li>- Prescribe the permitted transactions relating to the Sub-ingsit which include transferring with payment or without payment, mortgage or any registration relating to the aforementioned.</li><li>- <u>Effective date:</u> 19 November 2020</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/096/T_0009.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/096/T_0009.PDF</a></p>
	Kor	<ul style="list-style-type: none"><li>• Min. Reg. re: prescription of the fee rate and expense relating to Sub-ingsit B.E. 2563</li><li>- <u>Effective date:</u> 19 November 2020</li></ul> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/096/T_0018.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/096/T_0018.PDF</a></p>
	Kor	<ul style="list-style-type: none"><li>• Min. Reg. Issue No. 67( B.E. 2563) under the Building Control Act B.E. 2522</li></ul>

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		<ul style="list-style-type: none"><li>- Prescribe that during the construction of a building higher than 10 meters with distance measured from the outer building line to the public place or land of different owner less than half of the building height is required to have the dust prevention measures.</li><li>- <u>Effective date:</u> 17 January 2021 <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/096/T_0021.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/A/096/T_0021.PDF</a></li></ul>
	Phiset Ngor	<ul style="list-style-type: none"><li>• Ministry Notification re: exemption of the exclusion clause forbidding the foreigner to stay within the Kingdom particularly for workers from Cambodia, Laos, and Myanmar who are permitted to work within the Kingdom under MOU during the Covid-19 pandemic.</li><li>- Extend the stay permission for not more than 2 years to Cambodian, Lao, Myanmar national workers whose stay permit expires between 1 November 2020 and 31 December 2021.</li><li>- <u>Effective date:</u> 19 November 2020 <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/272/T_0005.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/272/T_0005.PDF</a></li></ul>
20 November 2020	Phiset Ngor	<ul style="list-style-type: none"><li>• Ministry Notification re: Ministerial Order to the Permitted Juristic Person (Issue no. 13) under the Exchange Control Act</li><li>- The permitted juristic person is allowed to loan foreign currencies to any person staying abroad without limiting the amount unless otherwise required by the authority.</li><li>- <u>Effective date:</u> 21 November 2020 <a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/273/T_0003.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/273/T_0003.PDF</a></li></ul>
23 November 2020	Phiset Ngor	<ul style="list-style-type: none"><li>• Notification of the Office of Trade Competition Commission re: guideline for consideration of unfair trade between digital platform service providers receiving and delivering food with restaurant operator</li><li>- Describes that “digital platform” means online business connecting the trade between restaurant business operator, food delivery, and consumer.</li><li>- Providing guidelines to consider unfair trade practices as follows:<ol style="list-style-type: none"><li>1. Charging of any expense, remuneration, or any benefit which is unfair such as charge a commission fee, advertising</li></ol></li></ul>

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		<p>fee, promotion fee without a justifiable reason or with discrimination;</p> <p>2. Using commercial conditions that deter or restrict other business operations such as exclusive dealing term prohibiting the selling food on other digital platforms;</p> <p>3. Using the unfair dominant market power including the price intervention and the same rate parity clause;</p> <p>4. Other unfair practices such as setting th unfair conditions causing damage.</p> <p>- <u>Effective date:</u> 24 December 2020</p> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/274/T_0014.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/274/T_0014.PDF</a></p>
24 November 2020	Phiset Ngor	<ul style="list-style-type: none"><li>• Announcement: extension of the declaration of the state of emergency for all areas in the Kingdom of Thailand (8<sup>th</sup> time)</li></ul> <p>- Extend the state of emergency, effective 1 December 2020 – 15 January 2021</p> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/275/T_0040.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/275/T_0040.PDF</a></p>
26 November 2020	Phiset Ngor	<ul style="list-style-type: none"><li>• Notification of Royal Thai Police re: procedures and places to fine payment B.E. 2563</li></ul> <p>- Prescribes that the driver receiving the traffic ticket must pay the fine within the determined period at any police station or electronic banking system, credit card, or places such as a bank, ATM.</p> <p>- <u>Effective date:</u> 27 November 2020</p> <p><a href="http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/277/T_0014.PDF">http://www.ratchakitcha.soc.go.th/DATA/PDF/2563/E/277/T_0014.PDF</a></p>