



2018 Year Review

Thailand

Thailand 4.0 is the final step towards making Thailand a first world nation and an ASEAN heavyweight. This twenty-year plan aims to drive Thailand forward to economic prosperity and social well-being without compromising human values and environmental protection. We have summarized the key developments undertaken during 2018 here.



MOC Registration – New Government Fees for Incorporation Approval

On 27 Feb 2018, the Thai Cabinet approved a draft ministerial regulation regarding government fees for the incorporation of new limited companies and partnerships. The Ministry of Commerce (**MOC**) has now revised the governmental fee rates to be in line with World Bank recommendations.

The new rates will be set at THB 5,000 for limited companies and THB 1,000 for partnerships, irrespective of their capitalization level. Additionally, there will be a 30% discount (until 2020) on these fees if registrations are performed using the DBD's online system. [Read more](#)

New Draft Labor Protection Act (Amendment)

The National Legislative Assembly approved a resolution for the new draft Labor Protection Act (Amendment) on 14 December 2018. The amendment to the LPA is expected to be published soon and will come into effect within 30 days from the publication date in the Royal Gazette. The law is expected to take effect in March 2019. Overall, this amendment grants further benefits and provides more clarity to employee entitlements.

[Read more](#)

Notification Re: Stipulation of Residential Property Leasing as Controlled Contract Business B.E. 2561 (the “Notification”)

A residential lease agreement must be made in the Thai language and contain detailed information of the lessor (the business operator), the lessee and the leased property. Details of the lease period, the rental fees, the public utility fees, the service fees and other expenses and their calculations must be specified. A description of the physical condition of the leased property must be attached to the lease agreement and the property must be inspected and acknowledged by the lessee. A security deposit must be immediately returned to the lessee at the end of the agreement, unless the lessee caused damage to the leased property. The lessee can terminate the lease agreement early upon providing a prior written notice of at least 30 days to the lessor. The lessor can terminate the agreement only if the lessee fails to comply with a 30-day written notice to rectify a breach.

Eastern Economic Corridor

A BOI announcement on 12 March 2018 has promoted Chachoengsao, Chonburi, and Rayong Provinces as part of the development of the Eastern Economic Corridor (**EEC**), a “pilot project” to encourage increased economic development across Thailand's Eastern Seaboard. Over the past 30 years, these three provinces have been developing to keep up with the fast growing industries situated there. While the EEC area covers just 13,000 square kilometers, the government has launched measures to support and accelerate economic growth in the EEC. This includes the development of public utilities, transportation systems, logistics, human resources, and investor facilitation in the form of a One-Stop Service Center. [Read more](#)

Regulatory Hash – Thailand's Cryptocurrency Law Comes Into Effect

The Emergency Decree on the Digital Asset Businesses B.E. 2561 (2018) (the “**EDDAB**”) was published in the Government Gazette on 13 May 2018 with effect from 14 May 2018. Simultaneously, the Thai Government enacted the Emergency Decree on the Amendment to the Revenue Code B.E. 2561 (2018) with the objective of imposing levies on income derived from Digital Asset transactions. The publication of the two Decrees represents Thailand's first attempt to regulate Digital Asset/cryptocurrencies. While the EDDAB has been issued, the regulatory process is still in nascence as the Thai crypto framework requires the issuance of subordinated regulations to be issued by the Ministry of Finance and the Securities and Exchange Commission to provide more detailed guidance and procedures on the principles outlined in the EDDAB.

[Read more](#)

The Payment System Act B.E. 2560 (“PSA”)

The PSA empowers the Ministry of Finance (“**MOF**”) and the Bank of Thailand (“**BOT**”) to license, regulate and supervise payment systems and payment services in order to manage risk, security, stability, good governance of the financial system and to enhance customer protection and efficiency and competitiveness of Thailand.

Draft of the Personal Data Protection Act

Thailand's Ministry of Digital Economy and Society ("MDES") recently published the latest draft of the Personal Data Protection Act (the "Act") for public hearing and public consultation from 5th – 20th September 2018 before the MDES revises the Act and submits it to the National Legislative Assembly for approval. The Act will come into force after 180 days from its publication in the Royal Gazette. This is much shorter than the period of one year as under the previous draft.

Draft of the Private Asset Management Act

On 10 July 2018, the Cabinet approved in principle the draft of the Private Asset Management Act as proposed by the Ministry of Finance. The main objective of this law is to allow the establishment of private asset trusts to manage personal assets and to reduce the repatriation of personal assets abroad, especially those of large family-owned companies, and to support capital mobilization by SMEs and startups. The draft will be reviewed by the Council of State before further approval by the Cabinet and final approval by the National Legislative Assembly.

BOI Notification No. Sor. 2/2018

This notification includes the defense industry in the list of promotion eligible businesses, consisting of manufacturing and repairing of (1) military vehicles and weapons systems for national defense, (2) unnamed systems and parts for national defense, (3) weapons and training systems and parts for national defense, (4) equipment used for battle support. The defense industry businesses promoted by the BOI will receive an 8-year exemption from corporate income tax without a maximum tax amount or 100% of investment capital depending on the types of business activities and exemption of import duties for import of machinery and the import of raw and essential materials for manufacturing defense products for export for 1 year, extendable as the BOI may consider. Non-tax privileges are also granted.

Regulation No. 17 of the Department of Business Development ("DBD")

In the past, the DBD did not allow registering "tourism" as a business objective of a legal entity unless such an entity was first approved by the Department of Tourism ("DOT") to engage in the tourism business.

The DBD also did not allow use of the term "tourism business" as the name or part of the name of a legal entity. However, under this regulation, it is now possible for a legal entity to register "tourism" as part of its business objectives without first obtaining prior approval from the DOT. Despite these regulations, a legal entity with a tourism business objective can start operating in the tourism business only after it has obtained an approval from the DOT pursuant to the Tourism Business and Tourist Guide Act B.E. 2551.

The Thai Government Announces New International Business Center Incentives

On 10 October 2018, the Thai government announced the cessation of the International Headquarters (“IHQs”) program (which also included Regional Operating Headquarters or “ROHs” and International Trading Centers or “ITCs”) and the creation of a replacement initiative; International Business Centers (“IBCs”). The move is part of the OECD Inclusive Framework for Base Erosion and Profit Shifting (“BEPS”). Under this framework, Thailand has agreed to implement four of the BEPS minimum standards: BEPS Action Item 5 (Harmful Tax Practices), BEPS Action Item 6 (Tax Treaty Abuse), BEPS Action Item 13 (Transfer Pricing Documentation), and BEPS Action Item 14 (Dispute Resolution Procedures). [Read more](#)

New Tax Incentives for Angel Investors

At the end of January 2018, the Thai government approved a Ministerial Regulation providing a tax incentive (“**Tax Incentive**”) to any Angel Investor investing in a start-up company that conducts a promoted business activity in an industry approved by the National Science and Technology Development Agency (“**NSTDA**”). More specifically, the Tax Incentive is granted to an angel investor that has invested in a start-up company or juristic partnership at either the incorporation or capital increase stage. Such an incentive will take the form of a tax exemption on personal income tax, capped at THB 100,000 for each applicable tax year. [Read more](#)

VAT on E-business

The draft of Act on Amendment of the Revenue Code will:

- Set methods to collect tax from e-business in foreign countries via electronic systems;
- Set rate for VAT calculation on electronic services for customers that are not VAT registrants;
- Set VAT requirements for foreign companies or platform owners providing electronic services to customers that are not VAT registrants in Thailand;
- Prohibit companies from charging VAT to customers;
- Set VAT form for foreign companies and platform owners via the TRD’s website; and
- Require foreign companies and platform owners to register with the TRD.

New Law on Transfer Pricing

On 22 November 2018, the Thai Revenue Department (**TRD**) took another significant step towards tightening its transfer pricing compliance and enforcement regime with the release of “the Additional Revision of the Thai Revenue Code No.47 (**TRC47**)”. Over the past five years, based on the Base Erosion and Profit Shifting (“**BEPS**”) initiatives of the OECD, many jurisdictions including the key trading partners of Thailand have introduced a series of measures to counteract transfer pricing abuse and other harmful tax practices. Although Thailand has been relatively slow to react, the passing of TRC47 is the clearest indication to date that the transfer pricing landscape in Thailand is about to undergo significant changes based on mandatory transfer pricing documentation and a strict penalty regime for non-compliance. [Read more](#)

IRS Finally Ends Long Standing Amnesty Program

The day has finally come to pass where the IRS has announced that they will end its major US tax amnesty program, the Offshore Voluntary Disclosure Program (**OVDP**). This program, in addition to the streamlined filing program and other international variants, was created to provide non-compliant US tax payers residing beyond their shores with the opportunity to remedy and address any outstanding tax responsibilities. This included filing returns, paying any back taxes owed, and re-entering the fold of US federal tax compliance. The OVDP is the most extensive (some might say onerous) of these programs. It allowed for taxpayers with potentially serious liabilities to make a voluntary disclosure of their tax situation, pay any due interest and penalties, without becoming subject to possible charges of criminal tax evasion. The program mainly involved negotiated settlements and required eight years of back submissions, along with the disclosure of foreign bank accounts as required under the FBAR filing mandate. [Read more](#)

2019 EXPECTED DEVELOPMENTS

Thailand 2019 Outlook

https://www.youtube.com/watch?v=Yim6_2g_aAM&t=62s



SEASON'S GREETINGS

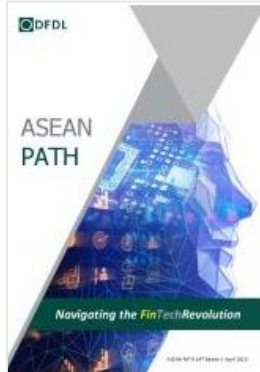
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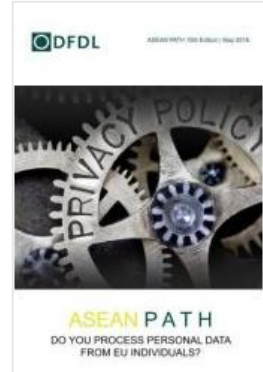




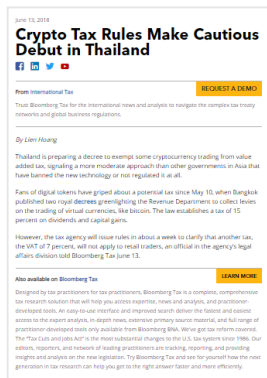
Thailand Investment Guide



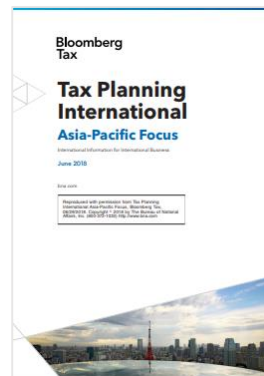
ASEAN Path #14 FINTECH REVOLUTION



ASEAN Path #15 GDPR



Jonathan Blaine Recently Quoted in Bloomberg International Tax



DFDL Discusses New Thai Regulations on Cryptocurrencies and Digital Assets in Bloomberg Article

KEY CONTACTS



Audrey Souche
Partner; Managing Director
audrey.souche@dfdl.com



Rashane Leerabandhu
Partner
rashane@dfdl.com



Jonathan Blaine
Tax Director
jonathan.blaine@dfdl.com

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