



AVIATION

New Regulation the Registration and Deregistration of Aircraft

The Civil Aviation Authority of Thailand (“CAAT”) has issued the new regulation No.44 prescribing registration and deregistration of the aircraft (the “Regulation”) on 15 December 2023.

Registration Procedure

Section 5 of the Regulation prescribes that any person who wishes to register an aircraft must be an owner or a possessor of the aircraft and shall submit an application for registration of aircraft and relevant documents to the Director of CAAT. (“Director”).

Once the application for registration of aircraft has been approved by the Director, the certificate of aircraft registration and a new 24-bit aircraft address will be granted and issued by CAAT to each applicant. If such aircraft is considered as the First Aircraft Type Entry in Thailand, the CAAT is obliged to notify the registration of aircraft to the State of Design.

De-registration Procedure

Any person who wishes to de-register the aircraft can submit the application for cancellation of aircraft registration to the Director together with the certificate of aircraft registration and evidence showing the reasons of de-registration of aircraft. Once, the application for de-registration of aircraft has been approved by the Director, the applicant shall remove the national flag, reset the Emergency Locator Transmitter Programming, and return the certificate of aircraft registration to the CAAT within 30 days from the date on which such application has been approved.

Additionally, the Director has the power to cancel the aircraft registration without the application on the ground that the certificate of aircraft registration is no longer valid which leads to the possessory right of the aircraft has come to an end in accordance with section 12 of Regulation.

BUILDING AND CONSTRUCTION

Reduction of Registration Fee for Transfer and Mortgage of immovable Property

The Ministry of Interior has issued two new ministerial regulations, regarding the Fee of Registration of Transfer and Mortgage of immovable property and condominium on 28 December 2023 under the Land Code and the Condominium Act. The new Ministerial Regulation prescribes the new rates of fees for transfer of ownership and mortgage. The eligible immovable property for the reduction includes detached houses, row houses, condominium units, semidetached houses, commercial buildings, and plots of land, which have the value of not more than three million Baht in case of sale and/or mortgage. Also, a buyer of such immovable property shall hold a Thai nationality. The new rates of registration fees are reduced from 2 percent to 1 percent of the sale price and from 1 percent to 0.01 percent of the mortgage amount. These ministerial regulations take effect until 31 December 2024.

ELECTRIC VEHICLES

License for operating Electric Vehicle Charging Station

A business operator intending to engage in electric vehicle (EV) charging station in Thailand

shall apply for and obtain a license for energy industry operation from the Energy Regulatory Commission in accordance with Energy Industry Act B.E.2550 (A.D.2007).

The types of operating EV charging station are divided into 2 categories as follows:

- (1) If an EV charging station has an electricity distribution capacity that includes the installation of an electrical transformer or converter totaling 1,000 Kilo Volt Amperes (kVA) or more, the business operator is required to submit an application for an electricity distribution license and relevant documents to the Energy Regulatory Commission
- (2) If an EV charging station has an electricity distribution capacity that includes the installation of an electrical transformer or converter totaling less than 1,000 kVA Volt Amperes (kVA) or is used for internal business purposes, the business operator is exempted from applying for a license to operate electricity distribution to the Energy Regulatory Commission in accordance with the Royal Decree prescribing the types and sizes of energy businesses exempted from obtaining an energy industry license B.E. 2552 (A.D.2009).

Nevertheless, the business operator is also required to notify the Energy Regulatory Commission of any energy business exempted from applying for an energy industry license in accordance with Notification of Energy Regulatory Commission prescribing the energy businesses exempted from obtaining an energy industry license B.E.2551 (A.D. 2008).

EVs incentives to be effective from 2024 to 2027

In order to promote the adoption and manufacturing of Electric Vehicles (“EVs”), the Thai cabinet officially approved the EV incentives from 2024 to 2027 incentives on 19

December 2023. These measures will come into effect from January 1, 2024, with the aim of bolstering the electric vehicle ecosystem. The incentives comprise the reduction of excise and customs taxes, along with subsidies outlined as follows:

- For EV cars with battery units not exceeding 50 kWh and a retail price below THB 2,000,000, subsidies of THB 50,000 are given. For EV cars with battery units exceeding 50 kWh, subsidies of THB 100,000 are provided. Additionally, the tax incentives include the reduction of excise tax from 8 percent to 2 percent and a customs tax reduction of not more than 40 percent.
- EV cars with a retail price over THB 2,000,000 but not exceeding THB 7,000,000 are entitled to a tax incentive of excise tax deduction, reducing it from the rate of 8 percent to 2 percent from 2024 until 2027.

However, for the effective promotion of investment in Thailand, manufacturers must produce an EV car in Thailand in accordance with the ratio set forth below:

- Importation of 1 EV car shall result in the production of 2 EV cars in Thailand by the end of 2026; or
- Importation of 1 EV car shall result in the production of 2 EV cars in Thailand by the end of 2027.

Apart from the tax incentives and subsidies for EV cars, electric motorcycles with a battery unit of 3 kWh or more and a retail price not exceeding THB 150,000 shall be entitled to subsidies of THB 10,000 and an excise tax deduction to 1 percent from 2024 until 2027. However, these subsidies will only be provided to electric motorcycles that are manufactured in Thailand.

ENVIRONMENT

The Management for Clean Air Act plans to be introduced in the upcoming year

On 28 November 2023, the cabinet approved a Bill of the Management of Clean Air Act (“Bill”), a pivotal step towards addressing the issue of haze pollution or PM2.5. This Bill highlights the right of individuals to breathe clean air and measures to prevent air pollution from various sources.

According to the Bill, sources of toxic haze include pollution from industrial factories, construction areas, agricultural burning, forest fires, vehicles, and transboundary sources. It is important to note that in relation to transboundary pollution, the occupier of the sources of toxic outside Thailand is subject to the same penalty as the haze originating from sources within Thailand. However, the payment of the penalty is not required in case the occupier of the sources of toxic has proven that all possible steps have been taken to prevent, reduce, or control the spread of this toxic haze to Thailand.

To tackle haze pollution, the government plans to employ a multifaceted approach to oppose air pollution issues, including the payment of management fees from the occupier of the sources of toxic. To enforce this Bill, the expectation is a significant reduction in PM2.5, as it aims to address the problem at its roots and employ effective measures to oppose air pollution.

HOSPITALITY AND TOURISM

Visa-free China travel agreed

Thailand and China are set to implement a reciprocal visa-free scheme, permanently waiving visa requirements for each other's citizens starting 1 March 2024, as announced by the Prime Minister, Mr. Srettha Thavisin. The move, an upgrade to Thailand's previous visa-free program for Chinese visitors, aims to boost

tourism between the two countries. Last year, Chinese tourists were the second-largest group visiting Thailand, with 3.51 million arrivals. Discussions regarding the reciprocal visa-free initiative had begun when the initial visa-free program for Chinese visitors was launched. The Tourism Authority of Thailand reported that the country aims to generate 3.5 trillion baht in tourism revenue this year, with plans to promote Thailand as a year-round tourism destination. The Foreign Minister, Mr. Parnpree Bahiddha-Nukara, is scheduled to visit China in mid-January to sign a memorandum of agreement on permanent visa-free cooperation, further solidifying the bilateral relationship.

INSURANCE

Government may partly payout Covid-19 insurance

The repercussions of the Covid-19 pandemic have significantly impacted some insurance companies which may lead to their closures. The root cause lies in their inadequate premium and capital reserves, rendering them incapable of meeting their obligations to policyholders. In general, insurance companies are responsible for contributing 0.50 percent of their annual insurance premiums to the General Insurance Fund (“GIF”), while the Government also makes an allocation annually to the GIF. This contribution made by the insurance companies will be used for the following purposes:

- (1) Provide assistance to creditors entitled to receive payment for debts arising from insurance in the event that the company's license to operate a casualty insurance business is revoked.
- (2) Cover expenses for developing the casualty insurance business to ensure security and stability, not exceeding the amount received under Section 80 (1) and (2) of Casualty Insurance Act B.E.2535 (A.D.1992).

- (3) Serve as funds for management expenses and other activities related to or associated with the management of the fund, not surpassing the rate set by the fund management committee.
- (4) Facilitate the repayment of principal and the payment of interest as stipulated in Section 80/1 (5).

However, the annual contributions received are insufficient for the GIF to effectively meet outstanding claims. Therefore, the government may need to allocate additional fiscal budget to assist in repaying outstanding claims to policyholders, ensuring that consumers are duly protected.

PDPA

New update on PDPA law

The Personal Data Protection Commission has issued a new announcement (“Announcement”) regarding the protection of the right and freedom of the data subject for a purpose of storing personal data for historical records and archives for public interest. This Announcement will take effect in 90 days from 8 December 2023, which is the date of its issuance. According to the new Announcement, it prescribes that any person who wishes to keep the personal data without consent of the data subject, such person shall comply with section 24(1) of the Personal Data Protection Act (“PDPA”) that the persons who collect the personal data must ensure the safety measures to protect the data subject’s rights and freedom. Also, the Announcement clarifies and provides additional measures, which should be complied with, there are underlying in section 4 of this new Announcement. The data controller must implement organizational, physical, and technical measures for only the extent of historical records and public archives. The data controller may adopt a program, which will not allow identity recognition, or adopt pseudonymization for reducing the risk of

disclosure of data subject’s identities. And the encryption method may be implemented by the data controller that any person who wishes to access the personal data have to enter the password before viewing it.

SECURITY

Office of Securities and Exchange Commission (“SEC Office”) implement rules for the new Thai Mutual Fund for Sustainability (“Thai ESG Fund”)

The SEC Office has implemented rules on establishment and management of Thai ESG Fund, which took effect on 1 December 2023.

Although the concept of a mutual fund to promote sustainability is not new in Thailand as a sustainable and responsible investing fund was already introduced by the SEC Office, the SEC Office further pushes its commitment to sustainability by introducing the Thai ESG Fund that has not only an outstanding portfolio and policy on its investment in the aspect of sustainability or environment but also provides attractive tax incentives for investors.

With regard to the benefits and incentives to invest in the Thai ESG Fund, the investor can use the invested money in the Thai ESG Fund to deduct from income in order to reduce the tax burden for a maximum of 30% of the assessable income which shall not exceed THB 100,000 per tax year that such investment occurs. The investor shall also get a special exemption on income that the investor gets from the sale of the investment unit, in which such income shall not be subject to tax provided that the investor holds such investment unit for not less than 8 years from the date of acquisition. Crucially, long-term investment in the Thai ESG Fund is expected as the sale of the investment unit prior to the completion of 8 years of possession shall revoke all benefits retrospectively, and thus the investor is liable to pay tax previously exempted as well.

Accordingly, the Thai ESG Fund marks the very next step in creating a choice and incentive for the public on the road to sustainable investment. Per their effect, great enthusiasm is shown as the SEC Office received and approved 22 applications to establish the Thailand ESG Fund from 16 asset management companies. The SEC Office's secretary-general remarks that the scheme could attract around THB 10 billion worth of investment and more to come in the years ahead.

TAXATION

New requirements for foreign tourist for VAT refund

The Revenue Department of Thailand ("RD") adopted new requirements for foreign tourists applying for Value-Added Tax ("VAT") Refund, starting from 1 December 2023 under the Announcement of the Director-General of Revenue Department on Value-Added Tax Refund for tourists ("Announcement"). The purposes of the new conditions are to boost the growth of domestic tourism industry and support the national economy and shopping destination in Thailand.

The RD has implemented certain amendments on the eligible value of the goods and types of luxurious items for which foreign tourists can claim VAT refund. The new minimum value of goods to be shown to a Customs Officer at the international airport shall be at least 20,000 Baht per person. For the luxurious items, the value of which to be presented to the Revenue Officer at the international airport shall be at least 40,000 Baht per item and 100,000 Baht for carry-on goods. The 9 types of luxurious goods include jewelry, gold, watch, glasses, pen, belt, mobile phone, laptop, and handbag.

Requirement for Thai E-commerce Platforms to submit the Electronic Special Account

The Revenue Department has issued its Notification on 27 December 2023, regarding the requirement for Thai e-commerce platforms to set up and submit their electronic special account. The Notification requires each of Thailand-based electronic platforms with revenue of more than THB 1 billion in an account period to set up the electronic special account. Also, it requires the platforms or e-tax service providers to link its electronic system to the electronic system of the Revenue Department to submit the revenue gained from their online merchants to the Revenue Department within 150 days from the last day of the account period. The platforms, that previously reported revenue of more than THB 1 billion but the revenue falls not exceeding THB 1 billion in successive account period, still have to continue report the special account. The enforcement of the Notification begins in the account period starting from 1 January 2024.

Payment of Stamp Duty on Loan Agreement in Cash or Cashier's check

The rate of stamp duty on loan agreement is 1 THB for every 2,000 THB or fraction thereof of the total amount of loan agreed upon, with limitation of amount of a payable stamp duty not exceeding 10,000 THB. Certain types of instruments are exempted from stamp duty, particularly, the loan borrowed from the cooperative; the cooperative borrows from the cooperative; or the cooperative borrows from the bank for agriculture and agricultural cooperatives.

The payment of the stamp duty on loan agreement can be paid in cash or cashier's check since the loan agreement falls into one type of instruments that is approved and prescribed in the Notification of the Revenue Department. A taxpayer or a lender, shall prepare a loan agreement signed by the lender and affixed with the company's seal on and shall pay stamp duty on the loan agreement. The payment of the stamp duty can only be made in cash or cashier's check within 30 days from the date of receipt of the loan

agreement by a tax official of the Revenue Department where the head office of the company is located or the place where the instrument is executed.

Should you have any question, please do not hesitate to contact us via info@bgloballaw.com

