



TAXATION

Carbon tax is under the consideration of the Thai Excise Department

Climate change has becoming as one of the biggest environmental issues around the world and it could not be denied that human emission is the main major causing this issue. As a result, countries have put their effort attempting to find a solution together in order to prevent or reduce damage that may occur in the near future.

By considering the environmental measures that are currently applied, it found that tax measures are one of the most effective ways that countries have adopted.

Currently, Thailand has no specific tax law governing carbon emissions. However, on 7 September 2022, Dr. Ekaniti Nitithanpraphas, the Director-General of the Thai Excise Department, announced that the Excise Department determines a strategy called “EASE Excise” to become a leader in levying taxes for society, environment and energy which will focus on operating under 4 pillars including implementing tax measures to enhance the capacity of ESG/BCG products/services in support of the carbon neutral country policy in 2050 and net zero emissions in 2065.

Tax measures that have been considered by the Excise Department are set forth below.

- Collecting carbon tax which complies with world standards, such as a tax collection on carbon dioxide-emitting products, or on factories' production processes that emit carbon dioxide.
- Implementing tax measure to promote the production of bioplastics, bio jet fuel and

environmentally friendly batteries by reducing the tax on ethanol in case it is used for the production of bioplastics or bio jet fuel.

- lowering the excise tax on recyclable EV batteries to 2%

Tax on share sales

On 29 November 2022, the cabinet ended the decades-long waiver on a financial transaction tax on sale share (“FTT”) in order to bring balance between securities traders and investors in the Thai bourse.

The principle approval of the Cabinet for the Revenue Department's regulation in this regard has been granted, and it has been forwarded to the State Council for review in detail. After receiving another round of cabinet's approval, it will be published in the Royal Gazette. The FTT will come into force three months after publication, on 1 April 2023, according to current plan.

The regulation seeks to gain the overall FTT to 0.11% of each sold share. However, the amount of tax collected will be lower in the first year, at 0.055% per share sold, and then rise to 0.11% in the following year.

In fact, the FTT is not new, it has been in place for almost 40 years, but the government has consistently waived it in favour of the growth of the market. The government decided to revoke the waiver.

The government would gain from the FTT charge since it would bring in about 15–16 billion baht in annual revenue. However, some experts are concerned that this may have an impact on the Thai stock market as investors may look for alternative investment opportunities such as investing in

foreign stock market. Therefore, the negative effects of losing trade might outweigh the positive effects of increasing tax gained.

DIGITAL ASSET

SEC mulls tighter rule for digital asset exchange services

On 16 September 2022, the draft regulation preventing digital asset exchanges from depositing and lending services have been in the stage of public hearing. This is because it may be generally misunderstood that the digital asset exchanges are qualified to carry on such service. The Securities and Exchanges Commission (“SEC”) decided to protect investors’ benefits by restricting the digital asset exchanges from taking deposit and lending to others for the benefit of their investors, and prohibiting them from advertising or encouraging others to do so.

Many foreign companies have been struggling with liquidity problems caused by depository and lending services, forcing them to prevent their customers from withdrawing money from the exchanges. On the other hand, some foreign exchange such as Binance has also provided this service with offering yields of 1.8 % for short-term returns as well as yields of 3.6% for long-term returns.

However, on the digital asset exchanges, they have already known about this move for a while, and complied with the rule, according to Mr. Sanjay Popli, the co-founder and chief executive of Cryptomind Group.

LAND

Cabinet backs foreigners owning land

On Tuesday 25 October 2022, principle of draft regulation of the Interior Ministry regarding allowing land ownership by foreigners (“the

Draft”) has been approved by the cabinet. The Draft allows four groups of foreigners to purchase land in Thailand including:

- Rich foreign nationals or wealthy global citizens;
- Wealthy pensioners;
- People who want to work from Thailand; and
- Highly skilled professionals or specialists.

Under this Draft, such foreigner may purchase up to 1600 square meters of land for the residential purpose in Bangkok, Pattaya City, as well as other municipalities and zones specified as residential areas, and shall be granted permission by the Minister.

In order to purchase land in Thailand, it should be noted that the permission to own lands under this bill is subjected to the condition that the foreigners shall invest at least 40 million baht each for 3 consecutive years. Indeed, the investment could be in any of the following including real estate or infrastructure funds, or real estate investment trusts. In case such foreigners withdraw the investment before designated period, their ownership of land shall be revoked.

The purpose of amending this bill is to facilitate the passage of the Long-Term Residence Visa, which was announced in the Government Gazette on 2 June 2022. Furthermore, the government hopes that this bill will help boost the country's economic growth by attracting the interest of those four specific groups of foreigners to invest in Thailand.

However, there is some confusion regarding the percentage of condominium units that foreigners may own. In fact, the regulation governing the percentage of condominium units that foreigners may own remains unchanged at no more than 49 per cent of total units. The law has yet to be issued because it must be reviewed further by relevant authorities. Nevertheless, many views that this bill may have some adverse effect on Thai’s people

who still do not own houses or lands in case that the bill is passed.

In addition, there are many criticisms on this proposed amendment because it may lead to land speculation which could potentially be trouble for Thai citizens which cannot afford higher price of land. However, this Draft could be amended in every five years to be consistent with contemporary situation of Thailand.

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

