



CABINET APPROVALS FOR TOURISM

Thai Government to Extend Hotel Fee dated 4 July 2024

In an aftermath of the COVID-19 pandemic, hotel businesses have not yet fully recovered from the economic woes that affects the travel sector despite the two previous efforts of the government by granting fee exemption for hotel businesses from 1 July 2020 to 30 June 2022 and 1 July 2022 to 30 June 2024 respectively.

In an effort to boost hotel businesses that are affected from the travel sector the most, on 25 June 2024, Thai cabinet approved an additional fee exemption for hotel businesses from 1 July 2024 to 30 June 2026.

Low season stimulus is approved by the Cabinet

The cabinet approved measures to stimulate tourism in secondary cities during the low season. The measures were divided into two parts: companies holding seminars and individuals travelling for leisure.

Legal entities can deduct expenses from corporate income tax for seminar rooms, accommodation, transport, or other related costs for domestic seminars held for employees, or the service fees of tour operators for such seminars and, individuals can deduct actual expenses paid to tour operators or for accommodation in hotels, Thai homestays, or non-hotel accommodation for travel in "secondary tourism provinces", up to 15,000 baht, from May 1 to Nov 30, 2024 both companies holding seminars and individuals travelling for leisure.

However, a board advisor for the Thai Hotels Association said the government should push all state authorities to spend money on meetings anywhere within the limited time frame of the fiscal 2024

In summary, the measures to stimulate tourism are companies holding seminars and individuals travelling for leisure from May 1 to Nov 30, 2024.

NARCOTICS

Thai Cabinet Approved One Pill Rule for Meth

On 11 June 2024, Thai cabinet approved the draft of ministerial regulation stipulating amount of narcotics and psychotropic substances that are deemed to be in possession for consumption in principle. This is part of a result from controversy and public backlash on the rules imposed by the government at the start of year 2024 that a person who owns amphetamine and methamphetamine ("Drugs") not more than 5 pills is deemed a drug user and not a drug dealer. The government has taken the comments and decided to make an amendment to its rule by reducing a number of Drugs ownership from not more than 5 pills of Drugs to 1 pill of Drugs for any drug owner to be considered as a drug user and not a drug dealer.

SAME-SEX MARRIAGE IN THAILAND

Legalization of same sex marriage in Thailand

On 18 June 2024, the Parliament approved the Marriage Equality Bill ("Bill"), which made Thailand become the first nation in South East Asia that legalizes the same sex marriage and

supports the rights of LGBTQ+. This new law will come into force within 120 days from the date of its publication in the Government Gazette. Thailand is the first country in Southeast Asia to legally recognize same-sex marriages.

According to the Bill, it amended the definition of a marriage from “a man and a woman” to “two individuals” under section 1448 of the Civil and Commercial Code, which removed the genders of persons who can register their marriage. Also, previously under the terms in the Civil and Commercial Code, they differentiated genders by using words “man”, “woman”, “wife”, and “husband”. But in this Bill, it amended the words to be “individuals” and “marriage couples”, which no longer identifies genders of persons. The LGBTQ+ will be able to receive the same rights as same as the man and woman couples do, such as signing medical consent for a partner and right to enter into legal divorce actions. In addition, the Bill allows the LGBTQ+ to adopt children.

Moreover, there is another amendment to section 1448 of the Civil and Commercial Code. It amends the minimum age of persons who can register their marriage from 17 years of age to 18 years of age, which is in compliance with the international rules on child protection.

Same-sex marriage in Thailand

Same-sex marriage refers to the legally or socially recognized marriage between 2 individuals of the same sex. This type of marriage provides the same legal rights and responsibilities as heterosexual marriages including rights related to inheritance, tax benefits, adoption and spousal support. The significance of having same-sex marriage includes:

1. **Legal Rights and Protections:** Ensuring that same-sex couples have the same legal rights and protections as opposite-sex couples including inheritance, tax benefits, adaption rights and spousal support.
2. **Emotional and Psychological Well-being:** Providing same-sex couples with the legal recognition and social acceptance that can improve their emotional and psychological well-being, contributing to healthier relationships.
3. **Economic Benefits:** Allowing same-sex couples to marry can have positive economic impacts including increased spending on weddings and related services as well as greater financial stability for married couples.
4. **Children’s Welfare:** Offering legal recognition and support to same-sex couples can provide a more stable and secure environment for children being raised by same-sex parents, promoting their overall well-being and development.
5. **Human rights:** Upholding the principle of equality and non-discrimination, affirming that all individuals have the right to marry the person they love regardless of gender.

This development is seen as a significant victory for human rights and gender equality in Thailand, reflecting the country’s commitment to these principles. This change highlights Thailand’s progress in LGBTQ+ rights, given its reputation for being LGBT+ friendly country although further legal reforms are needed to fully protect the rights of transgender individuals.

SECURITIES

Shelf Filing of Digital Tokens

On 4 June 2024, the Office of the SEC opened a public hearing on the proposed Rules Related to Shelf Filing of The Digital Tokens Offering to The Public (“Shelf Filing Rules”).

In the past, the Office of the SEC implemented many rules that governs the process of initial coin offering (“ICO”), such as filing requirement and retail investment limitation. However, there has been a rise in demand for the ICO with underlying assets of the same characteristics which are gradually issued in different times, while the current legal measures are not yet compatible with the characteristics of such investment products. Therefore, the Office of the SEC proposed to improve the rules on ICO to be compatible with special natures of such investment products.

The prominent example from this Shelf Filing Rules was that Shelf Filing ICO (“Shelf Filing ICO”) can be gradually sold within 2 years from the date of shelf filing authorisation, instead of the general timeframe of 6 months. Also, the Shelf Filing ICO shall be exempted from retail investment limitation. The Office of SEC also specified that the Shelf Filing ICO is available for soft power project, such as music, movie or animation.

These Shelf Filing Rules are the effort from the SEC Office to endorse technology’s role in investment, promote the investment by tailoring the rules for in-demand investment products, while also support creative economy development with a better access to finance for soft power industry.

Broaden Scope of Initial Coin Offering (“ICO”) Portal Outsourcing

On 27 June 2024, the Office of the SEC opened a public hearing on the proposed amendment to ICO portal outsourcing rules and related legislations.

The Office of the SEC has always determined to endorse the usage of investment token as a tool for investment. However, it has been found in the moment that the investment token was not yet sufficiently accessible as an investment tool to the investors with many factors including the limitation on what tasks the ICO portal can outsource to others, which has proved to be an obstacle for some entities with sufficient expertises to perform due diligence on the project and customer base in applying to be an ICO portal because of the lack of some qualities, such as IT system.

Therefore, the Office of the SEC Office proposed the amendment to the rules on outsourcing that will allow the ICO portal to be able to outsource all of its tasks except for the due diligence on digital token, which is a core task of ICO portal business.

In light of this proposed amendment, the Office of the SEC hoped that there would be less difficulty for securities business, such as financial advisors, to apply to be an ICO portal.

TAXATION

Proposed taxation of people with income from foreign sources

The Revenue Department is proposing to amend law to collect taxes from people who has income from abroad including the income is not brought into the country

At present, the law imposes tax on any one who resides in Thailand for more than 180 days in a year to pay taxes to Thailand if a Thai resident

has and remit income from abroad into Thailand. But in the future the Revenue Department intends to propose amendment to the law to apply the principle of worldwide income, whereby the worldwide taxation is imposed on a resident of a country.

Tax exemption measures for project investments in 3 southern provinces

The Revenue Department has announced the Royal Decree issued under the Revenue Code regarding the tax exemption measures No. 786 (“Royal Decree”), which prescribes the tax exemption of corporate income tax incurred by a company or a partnership having its businesses located in special economic zones, which are three southern provinces: Narathiwat, Pattani, and Yala. The businesses will be granted corporate income tax exemption on income received in the amount equal to expenses spent on investment or development of the businesses, excluding the expenses on repairment of the property under section 65(5) ter of the Revenue Code. However, only certain assets are subject to this Royal Decree, including machinery, compartments, equipment, decorations, furniture, software, special vehicles registered in the special economic zones not including vehicles carrying of not more than 10 people, and permanent buildings not including land and resident buildings.

To receive the tax exemption, the above expenses shall be incurred from 1 January 2024 to 31 December 2026. Also, other two conditions of the assets mentioned above shall not be used or utilized before and shall be assets, which can be calculated under the depreciation value basis.

Tax measures for supporting domestic tourism industry 2024

New tax measures are to support tourism industry in Thailand, starting from 1 May 2024 to 30 November 2024. This new law applies to tourists who visit secondary cities or less-visited provinces in Thailand, including 55 provinces, such as Chiang Rai, Ranong, Nakhon Nayok, and Trad. The tax incentives for individual taxpayers include expense deduction at an actual amount but not more than 15,000 Baht provided that such taxpayers shall spend expenses to accommodation business operators and/or tour guides. In order to obtain such tax deduction benefit, the e-tax invoice shall be presented and submitted when filing tax returns.

On the other hand, for juristic persons, tax incentives include expense deduction for double amount of actual amount of expenses when carrying out seminars in 55 secondary cities and 1.5 times expense deduction of an actual expense for having corporate seminar in other cities, which are not secondary provinces. The eligible expenses under this tax scheme are accommodation and transportation costs, tour guide expenses, and other spending. To receive the tax deduction benefits, such juristic persons shall submit the e-tax invoice or e-receipt.

However, the e-tax invoice or e-receipt shall be issued and contain all necessary details as prescribed in section 86/4 of the Revenue Code.

Thai carbon levy is set to rise in 2025

The Excise Department is scheduled to impose a carbon tax in the next year. The carbon tax collection starts with oil, and the Excise Department can implement this tax

To illustrate, the current excise tax on diesel is 6.44 baht per litre. Diesel emits 0.0026 tonnes of carbon per litre, and the carbon tax rate will be charged at 200 baht per tonne of carbon,

averaging 46 satang per litre. This measure is for decreasing carbon in Thailand.

In addition, the Excise Department support a measures promoting electric vehicles to lead to increased EV usage. This measure helped reduce carbon emissions by around 240,000 tonnes and collect battery taxes set at 8% for all types.

To summarize, to decrease effects from carbon and enhance competitiveness, mandatory mechanisms for businesses will be made through excise tax law in 2025.

TRADE

Measures to strengthen the supervision of short selling

Short selling refers to the trading activity where an investor sells borrowed securities on the open market with the aim of buying them back when the stock price drops to return such securities to the lender; short sellers make profits out of the differences between the higher selling price and the lower purchasing price. Short selling activities are regulated by the Securities and Exchange Commission (SEC).

There have been concerns about the potential naked short selling activities in Thai stock market which led to the uncertainty about the ability of the SEC to inspect such illegal transactions. Naked short selling refers to illegal short selling activities where the investor short sells the securities that do not exist or without first borrowing or securing the right to borrow the securities.

The Stock Exchange of Thailand (SET) proposed for the SEC approval the measures to strengthen the supervision of short selling and the supervision of the usage of Algorithmic Trading with objectives to enhance the mechanisms for building trust and confidence in securities trading

and to hinder the violation of short selling rules and improper trading behaviors.

The proposed measures include the enhancement of the quality of securities eligible for short selling such as by increasing the requirement in terms of size and liquidity of the securities, amendment to the law is to increase liabilities across the entire chain such as by adding a mechanism for identifying the end beneficiary and by increasing penalties for naked short selling and non-compliance of short selling rules, the development of the central system to serve as a source of information for the securities companies to check pre-trade risk on clients' stock balances, the price fluctuation control, the enhancement of the oversight quality of intermediaries such as the SET and the securities companies, and measures relating to inappropriate trading behaviors. The proposal also covers the measures to control the impact caused by short selling such as by implementing "Uptick Rule" when the closing price of any security has dropped by at least 10 percent from its closing price in the previous day. The Uptick Rule requires all securities to be short-sold at prices higher than their previous trade price instead of the current rule which allows securities to be short-sold at the same price as the previous trade price. The aim is to mitigate the downward momentum of securities prices.

The proposed measures were approved by the SEC and have been implemented on 1 July 2024.

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

