

CHANDLER & THONG-EK LAW OFFICES LTD.

Newsletter No. 43

April 30, 2006

Bubhajit Building, 7th-9th Floors
20 North Sathon Road
Bangkok 10500, Thailand
E-mail: library@ctlo.com

Phone: (662) 2666485
Fax G3: (662) 266-6483-4
Fax G4: (662) 200-0140
Website: www.ctlo.com

The following important legislation was published in the Government Gazette

Act, Account, Alien, Banking, Finance and Securities

1. The following Acts have been recently enacted:
 - 1.1 Credit Information Business Operation Act (No. 2), B.E. 2549. The previous Act provides that the sending of information and the reporting of information to the information owner concerning the information duly sent to the credit information company and the seeking of consent of the information owner in disclosing or giving information to the members or the service users must be made in writing and must be made within the period prescribed by law, which has caused some burdens to the credit information company, and it is not in line with the information technology where information can be sent by other methods. Also the criminal punishments under the previous Act are too harsh, it is deemed suitable to amend the law so as to create suitability for the enforcement thereof. (2302)
 - 1.2 Act Amending Civil Procedure Code (No. 22), B.E. 2548. The previous Act in the part relating to execution under judgment or orders now enforced are not in line with the present situation, thereby causing the execution under judgments or orders to be carried out with delay and also causing insufficient protection of rights of the judgment creditor and judgment debtor. And whereas Schedule 5 annexed to the Civil and Commercial Code has fixed the Executing Officer's fees far too high, it is then deemed suitable to amend the provisions of the Civil Procedure Code in the part relating to the execution so that it is in line with the judgments or orders and so that the Executing Officer's fees are more appropriate. (2707)
 - 1.3 Business Registration Act (No. 2), B.E. 2549. The Act provides that Bangkok Metropolis, Pattaya City, provincial administration organization and other local administration organization designated by the Minister and published in the Government Gazette shall be a business registration office for registration of business in their own localities. For businesses which the Minister has not designated, the Department of Business Development shall be the business registration office. (1503)
2. Notice of Department of Business Development re bases, procedures and period of time for continuous development of professional knowledge of auditors (No. 2). (1603)

Commerce, Customs, Tax and Duty

1. Royal decree issued under Revenue Code governing International Para Rubber Joint Venture Company Limited in conformity with the Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of Malaysia and the Government of Republic of Indonesia shall be exempted from the income tax under Division 3, Chapter 3, Title 2 of the Revenue Code. (2003)
2. Royal decree issued under Revenue Code (No. 453), governing exemption of juristic person income tax, value added tax, specific business tax and stamp duty for financial institutions on assessable income, value of tax base, revenue or execution of instruments arisen or derived from merger or transfer of businesses under the financial institution system development plan, and to exempt personal income tax and juristic person income tax for shareholders of financial institutions on benefits obtained from merger or transfer of businesses of the said financial institutions made during 6 January 2006 until 31 July 2006. (1704)
3. Royal decree issued under Revenue Code (No. 454), granting tax and duty privileges to the commercial bank who borrows money from abroad for lending abroad, and revising reduction of juristic person income tax rate for the commercial bank on income received from acceptance of deposits or borrowing of foreign currency from abroad for lending abroad, and revising the exemption of personal income tax and juristic person income tax for a natural person who has not Thai nationality and who has domicile or resides abroad as well as the company or juristic partnership established under foreign law and not operating business in Thailand, by giving tax and duty privileges to the said persons on assessable income which is interest on deposit or interest on loan received from commercial banks, specifically acceptance of deposits or borrowing of money from abroad for lending abroad. (1704)
4. Ministerial regulations No. 260, prescribing that the income from sale of a forward contract concluded in the forward contract sale centre, in the case where is no delivery of goods, shall be assessable income that is exempted from computation for payment of personal income tax. (1704)
5. Order of Revenue Department No. Por. 134/2549 re payment of income tax of a company or juristic partnership in case of transfer of assets fallen under description of transfer of assets with reasonable ground under Section 65 bis (4) of The Revenue Code. (3003)
6. Notice of Ministry of Finance re exemption of excise tax on goods sold in a bonded warehouse located in Customs Airport. (1312)
7. Notice of Ministry of Finance re extension of the period of time for payment of tax generally for an assessable income earner under Section 40(8) of Revenue Code who has the duty to pay tax less than Baht 3,000 to have an opportunity to correctly file returns and pay tax and duty not exceeding 6 equal installments, without paying additional money, fine and without being subject to criminal punishment. (0703)

8. Notice of Ministry of Finance re reduction of rates of duty and exemption of customs duty under Section 12 of Royal Proclamation on customs tariff on personal sports equipment, regardless of whether they be classified in any heading, imported for use in training, competition, research or development of capability of athletes to be of international standards. (0304)
9. Notice of Director-General of Revenue Department (No. 150) re bases, procedures and conditions respecting exemption of income tax on income received by an income earner residing in Thailand and who is not under sixty-five years old in that taxable year. (1602)
10. Notice of Director-General of Revenue Department (No. 50) re bases, procedures and conditions respecting exemption of stamp duty on revenue from execution of instruments arising from sale of immovable property used as old dwelling place and purchase of new immovable property to be used as new dwelling place. (0202)
11. Notice of Director-General of Revenue Department (No. 151) re bases, conditions and procedures for cases where employee is out of work because of retirement, disability or death. (2302)
12. Notice of Director-General of Revenue Department (No. 164) re bases, procedures and conditions respecting sale of goods of bonded warehouse for display and sale of goods stored in said bonded warehouse under, law customs, which is located at Customs Airport, to persons traveling into the Kingdom. (0203)
13. Notice of Director-General of Revenue Department (No.10) re bases, procedures and conditions respecting exemption of specific business tax on revenue received from sale of immovable property possessed by seller for business operation, specifically sale of immovable property which is factory with land of a company or juristic partnership for move of place of business into an industrial estate under the law governing industrial estate authority of Thailand. (0703)
14. Notice of Director-General of Revenue Department (No. 152) re bases, procedures and conditions respecting exemption of income tax for special purpose vehicle under the law governing special purpose vehicle for securitization on income from operations specified in a securitization project approved by the Office of Securities and Exchange Commission under the law governing securities and exchange. (3003)
15. Notice of Director-General of Revenue Department re guidelines for practices under standards of examination and certification of account of tax and duty auditor. (2302)
16. Notice of Ministry of Commerce governing prescription of measures protecting increasing importation (No. 2) so as to cover the proceedings and the prescription of measures as specified in the free trade agreement or other agreements of the same description that Thailand is obliged thereunder, as the case may be, other than the obligations under the World Trade Organization agreement. (1801)

Immigration, Industry, Insurance and Investment,

1. Notice of Board of Investment No.1/2549 re granting promotional rights and privileges to existing businesses under Section 36(1) and (2). (3003)
2. Notice of Office of Board of Investment No. Por. 3/2548 re criteria for application for rights and privileges with respect to machinery by Electronic Machine Tracking (eMT). (0203)

Labor, Land

1. Letter of Ministry of Interior dated May 15, 2006, which specifies that if it appears that foreigner holds shares or becomes a director, or if there is a reasonable ground to believe that a Thai national holds shares in place of a foreigner, the competent officer shall investigate into the income of the Thai shareholder by inquiring into the kind of occupation and the number of years they have engaged in, and the income they earn a month, etc.
2. Notice of Land Department re evidence to be produced by an alien and a juristic person regarded by law as an alien for acquiring ownership of a condominium unit. (3003)
3. Notice of Ministry of Interior re collection of fees for registration of rights and juristic acts under the law governing condominium buildings and the Land Code, in case of encouraging buying/selling and mortgaging under the measures promoting second-hand houses. (1511)
4. Royal decree prescribing period of time for entitlement of compensation benefits in case the insured's status as employee is terminated. (2003)
5. Ministerial regulations prescribing bases, procedures, conditions and rates of payment of compensation benefits in case of child welfare. (1004)
6. Notices of Ministry of Interior re collection of fees for registration of rights and juristic acts under the law governing condominium and the Land Code in case of merger of businesses under the financial institution system development plan as specified by the Cabinet. (2703)

Miscellaneous

1. Royal decree dissolving the Express Transportation Organization of Thailand and prescribing the procedures on the management of property under the Act Governing Establishing Government Organizations, B.E. 2496. (1602)
2. Royal decree prescribing civil and commercial transactions exempted from enforcement under the law governing electronics transactions (1) family transactions and (2) legacy transactions. (1503)

3. Notice of Central Board Governing Prices of Goods and Services re display and reporting of considerations in return, costs, expenses, bases, procedures and conditions respecting exercising of rights to publish copyrighted songs for trading purposes. (0803)
4. Notice of Ministry of Foreign Affairs revising the fee for renewal of a passport which is not of electronic type to be Baht 1,000. (0303)

Summary of Laws and General Matters Approved by the Resolutions of Cabinet during March – April 2006

1. Approval of Warehouse, Silo and Cold Storage Bill, B.E..... re the warehouse, silo and cold storage committee, the establishment, size of such business and the penalty. (1403)
2. Approval of the exemption from compliance with the Cabinet Resolution dated 27 December 2005 which specified that all government working units having land in possession shall temporarily delay the issuance of evidence and approval of lease of land temporarily in order to allow Amaradeus Hess (Thailand) Co., Ltd., the petroleum concessionaire under Phoohom natural gas development project (for energy security), to utilize the land as necessary in forest and afforestation areas which are under the responsibility of Forestry Department or National Park, Wildlife and Plant Conservation Department until obtaining the approval under the rule and law governing forestry by paying compensation for afforestation according to the rules and criteria specified. The Ministry of Natural Resources and Environment was assigned to take further actions. (1403)
3. Approval of the Sea Games Tournament No. 24, B.E. 2550 to be held during 6 – 15 December 2007 by setting Nakorn Ratchasima as the core province for this tournament. (1403)
4. Approval of the e-auction of construction of drainage project in stages 1 and 3 at Suvannabhumi airport and Chor Karnchang plc. agrees to reduce the construction cost for stage 1 from Baht 1,465,786,094 to Baht 1,449,500,000 and S.L. Joint Venture agreed to reduce the construction cost for stage 3 from Baht 2,894,027,504 to Baht 2,870,275,000. (1403)
5. Approval of establishment Thailand as Asean University. (2103)
6. Acknowledgement of the appointment of Department of Medical Sciences as WHO Collaborating Center for Strengthening Quality System in Health Laboratory. (2103)
7. Approval of draft ministerial regulation issued under Services House Business Act governing the approval of application for establishment of services house, renewal of license, nature of exterior and interior of services house, identification of employees, etc. (2803)

8. Approval of two notices and one royal decree as follows: (2803)
 - 8.1 Notice of Ministry of Finance exempting customs duty for items imported for remote sensing of THEOS Satellite
 - 8.2 Notice of Ministry of Finance exempting excise tax for items imported for remote sensing of THEOS Satellite
 - 8.3 Royal decree issued under Revenue Code re: exemption of VAT for items imported for remote sensing of THEOS Satellite.
9. Acknowledgement of the Judgment rendered by the Administrative Court on March 23, 2006 regarding revocation of two royal decrees re EGAT. (2803)
10. Approval of draft ministerial regulation specifying (1) the main architecture, town plan architecture, architectural geography, decorative arts and interior architecture as the controlled architectural profession, (2) that project study, design, administrative, construction management, inspection and consultant works are the controlled architectural profession. (0404)
11. Approval of draft ministerial regulation specifying the criteria and procedures for overseeing, maintenance, use and procurement of state land (0404)
12. Acknowledgment of the Minister of Foreign Affairs, signing of the Agreement between the Government of the Member Countries of the Association of Southeast Asian Nations and the Government of the Russian Federation on Economic and Development Cooperation. (1804)
13. Acknowledgment of the Minister of Interior's signing of the MOU between UNHCR and Ministry of Interior. (1804)