



Legal News

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Amendment to Construction Cost for Investment Capital of BOI Promoted Projects

On 19 April 2018, the Office of the Board of Investment (“BOI”) issued BOI Announcement No. Por.6/2561 RE: Capital Investment for Construction Cost (“Announcement”) in order to clarify the calculation of a capital investment for construction cost to be used in the calculation of the cap on the corporate income tax exemption. The Announcement specifies that construction costs for housing of labor can be counted as part of capital investment excluding the cost of land and working capital. Such housing can be constructed or purchased but housing has to be located near the place of business as the BOI deems appropriate.

This Announcement applies to projects that have been granted investment promotion by the BOI but have not yet requested from the BOI official commencement of project operations and projects being applied for investment promotion from the date of this Announcement.

Reinstatement of Insured Person Status Act B.E. 2561 (A.D. 2018)

On 19 April 2018, the Reinstatement of Insured Person Status Act B.E. 2561 (A.D. 2018) (the “**Act**”) was published in the Government Gazette and came into effect starting from 20 April 2018. The details of this Act can be summarized as follows:

The insured person, who ceases to be an insured person due to non-payment of contributions for 3 consecutive months or paying the amount of contribution less than 9 months within the period of 12 months, as a result, is not entitled to benefit from the Social Security Fund. If the person wishes to continually be an insured person, he or she shall submit an application to the Social Security Office according to the regulations prescribed by the Secretary – General within 1 year from the date of publication of this Act. If the Social Security Office considers that a previously-insured person is qualified for reinstatement of insured person status, the Social Security Office will notify to him or her within 7 days from the date that the application is received by the Social Security Office. The reinstatement of insured person status will be effective starting from the month that such person has submitted the application and the insured person shall have all of the rights and duties under the Social Security Act.

Ministry Of Commerce: Rulings on Business Operations of Foreign Companies in Thailand under the Foreign Business Act B.E. 2542

If a foreign company provided a debt guarantee for the loan obtained from the Export-Import Bank of Thailand (“EXIM Bank”) to an affiliated company, even though the EXIM Bank is a state enterprise under the Act on Budgetary Procedures B.E. 2502, the loan guarantor must obtain a Foreign Business Licenses (“FBL”) to operate this service business, as per list 3 (21) of the Foreign Business Act B.E. 2542. This transaction is not considered as service business having a state enterprise as a contractual party, which will fall under the exemption stipulated by the Ministerial Regulation prescribing service businesses that do not require a FBL (No. 3) B.E. 2560.

Identity verification of partner, promoter and director in case of e-Registration of juristic person with the Department of Business Development

The Department of Business Development has modified the regulation regarding e-Registration of the formation of juristic person. Previously, partner, promoter or director has to fill in information and submit the application to the electronic system by themselves and all of them were required to verify their identities in the presence of the Registrar. Currently, the entrepreneur can appoint an agent to submit the application and conduct any related actions i.e. reservation of the juristic person’s name, fill in the application and pay the government fee on behalf of their client.

In order to verify identity of partner, promoter and director, they can appoint the agent to verify the individuals without having them to be in the presence of the Registrar. The verification can be done by agent by way of submitting the power of attorney together with a certified correct copy of ID card or passport of partner, promoter or director to the Registrar.

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