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The Labor Protection Act (No.6) B.E. 2560 (A.D. 2017)

The Labor Protection Act (No. 6) B.E. 2560 (A.D. 2017) (the "Act"), which is the amendment to the Labor Protection Act B.E. 2541 (A.D. 1998), has been published in the Government Gazette on 31 August 2017 and the Act came into effect on 1 September 2017. Key amendments can be summarized as follows:

- The Ministry of Labor's Wage Committee is authorized to set the minimum wages for specific groups or specific kinds of employee that can be different from the minimum wages for specific types of business, or any professional in different areas, but shall not be less than the minimum wages as specified in the Act.
- The provision that requires the work rules to be delivered to the Director-General or a person entrusted by the Director-General within seven days from the date of announcement of the implementation of the work rules shall be revoked, and stipulate that the employer is required to make available and post the work rules and the amended work rules at the employee's workplace, or the work rules and the amended work rules may be made available electronically, in order

that the employee can acknowledge and easily access the work rules. The announcement of the work rules must be made within 15 days from the date that the number of employees reaches 10 employees.

- Retirement in accordance with the agreement between the employer and the employee or as prescribed by the employer is regarded as termination of employment.
- In the case that there is no agreement regarding the retirement age between the employer and the employee, or the agreement states the retirement age exceeding 60 years, the employee who reaches the age of 60 or more is entitled to exercise his right of retirement by mean of notifying the employer, and such retirement will take effect after 30 days as from the notifying date. In addition, the retiring employee is entitled to receive severance pay from the employer.

Payment of stamp duty in cash instead of affixing stamp duty for juristic person registration

The Director-General of the Revenue Department issued a recent Announcement related to the payment of stamp duty (No. 56). The Announcement requires the payment of stamp duty in cash instead of affixing stamp duty on the instruments for registration of a Partnership, Company Limited, Public Company Limited, Associates and Chamber of Commerce. The following documents must pay the stamp duty by cash instead of affixing stamp duty:

- Power of Attorney for submission of registering application of juristic person and an application for obtaining or amending a username, password and verifying the user for e-registration of juristic person
- The Memorandum of Association of a company limited
- Articles of Association of a company limited
- Amendment of the Memorandum of Association and Articles of Association of a company limited
- Agreement for amendment or establishment of a partnership agreement.

The payment of stamp duty in cash must be made before or on the registration date with the Registrar. This Announcement came into effect as follows:-

- For electronic instruments, the effective date is 18 April 2017
- For non-electronic instruments, the effective date is 1 August 2017.

The Trade Competition Act B.E. 2560 (A.D. 2017)

The Trade Competition Act B.E. 2560 (A.D. 2017) (the "**Act**") was published in the Government Gazette on 7 July 2017 and Act will come into effect from 5 October 2017. The new Act coming into effect will repeal the current Trade Competition Act B.E. 2542. (A.D. 1999). The key items covered under the Act can be summarized as follows:

- Stipulates a definition of a business operator with market dominance which will require the Trade Competition Commission to establish criteria for the determination of a business operator and the criteria must be reviewed at least 1 time within 3 years as from the date of announcement.
- Prohibits a business operator with market dominance to engage in the following unfair trade practices
    - Unfairly fixing or maintaining the price levels of goods or services

    - Unfairly setting conditions for trade counterparties to limit the provision of services, manufacturing, purchase of goods, distribution of goods, or limit the opportunity to purchase or sell goods, or the procurement of credit from other business operators.
    - Suspending, reducing, or limiting the provision of services, manufacturing, distribution, importation into the Kingdom, without reasonable grounds, demolishing or causing damages to goods for the purpose of decreasing supply to be below demand.
    - Intervening in the business operation of other business operators without reasonable grounds.
- Stipulates that a business operator engaging in a merger that may result in a substantial reduction in trade within a certain market must report the consequence of the merger to the Trade Competition Commission within 7 days as from the date of merger.
- Stipulates that a business operator engaging in merger which may result in monopoly or becoming a business operator with market dominance must obtain prior approval from the Trade Competition Commission.
- Prohibits a business operator to perform any action that is deemed to be a cartel practice or result in reduced competition, such as fixing price of goods or services, limiting quantity of goods or the provision of services, allocation of distribution area, etc. Business operators with policy or control relationship according to the criteria set by the Trade Competition Commission will be exempt from the foregoing prohibition.
- Stipulates the criteria for calculation of administrative fine to be calculated based on the turnover gained by a business operator in the year of violation of the Act, or to be calculated based on the value of the merger in case of the non-complying merger.

The Announcement of the Board of Investment Re: Amendment and Addition of Investment Policy in Special Economic Zones

On 5 July 2017, the Thailand Board of Investment ("**BOI**") issued an announcement of the BOI No.7/2560 Re: Amendment and Addition of Investment Policy in Special Economic Zones ("**SEZs**") ("**Announcement**"). The primary purpose is to economically connect with neighboring countries and support the ASEAN Economic Community which is summarized as follows:

- Extending the application submission deadline for projects investing in SEZs in Kanchanaburi, Chiang Rai, Trat, Tak, Nakhon Phanom, Narathiwat, Mukdahan, Songkhla, Sa Kaeo, and Nong Khai province to 30 December 2018
- Amending the categories of BOI promoted activities as follows:
    - Category 1.22 Manufacture of animal feed and feed ingredients;
    - Category 2.17 Manufacture of construction materials and pre-stressed concrete for public utilities;
    - Category 6.15 Manufacture of body care products (e.g., soap, shampoo, toothpaste and cosmetic);
    - Category 6.16 Manufacture of plastic products for consumer goods (e.g., plastic packaging);
    - Category 6.17 Manufacture of fiber or paper products (e.g., paper box); and

    - Category 7.24 Office and building development for industrial use/warehouse.
- Benefits granted are as follows:
    - Exemption of corporate income tax for 8 years with a cap of 100 percent of investment capital (excluding cost of land and working capital);
    - Deduction of the cost of installation or construction of facilities for 25 percent of investment capital in addition to the normal depreciation deduction;
    - Exemption of import duty on machinery;
    - Exemption of import duties on raw or essential materials imported for export for a period of 5 years;
    - Permit to bring into the Kingdom unskilled workers for the BOI promoted activity; and
    - Other non-tax incentives such as permit to own land.

This Announcement came into force on 1 June 2017 onwards.

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