

### Latest Law update at June 2024

Currently, there has been an increase offenders violating The Foreign Business Act., EEC Visa: Facilitating convenience for skilled foreign individuals and targeted groups to enter Thailand for employment, aiming to develop specific targeted industries., e-Tax & e-Receipt, Criminal liability of representatives of juristic persons according to the Revenue Code, Section 90/5

#### Topic 1

#### New Law Update

#### Topic 1. Latest Law Update

No.	Issuing Authority	Subject	Announcement date	Effective date
1.	Ministry of Finance	Notification of ministry of finance regarding personal income tax and VAT (No. 816) Designate organizations, charitable institutions, nursing homes, and educational institutions. Change the list of foundations No. (533) to "Fund for Pandas and Other Wildlife"	Announced in the Government Gazette on 23 April 2024	23-Jan-24
2.	Ministry of Finance	Ministerial regulation on Requesting and issuing a certificate of being a reporting (No. 2) B.E. 2567.	Announced in the Government Gazette on 31 May 2024	within 6/17/2024
3.	Ministry of Finance	Royal decree issued by RD code (No. 783) B.E. 2567, Reducing rates and tax exemptions: Tax measures for special development zones.	Government Gazette on 5 June 2024	06-Jun-24
4.	Ministry of Finance	Royal decree issued by RD code (No. 784) B.E. 2567, Reducing rates and tax exemptions: Measures to promote cooperation between businesses outside and businesses inside the special development zones	Government Gazette on 5 June 2024	06-Jun-24
5.	Ministry of Finance	Royal decree issued by RD code (No. 785) B.E. 2567, Tax exemption: Tax measures to support the installation of CCTV systems in special development zones	Government Gazette on 5 June 2024	06-Jun-24
6.	Ministry of Finance	Royal decree issued by RD code (No. 786) B.E. 2567, Tax exemption: Tax measures to reduce rates and exemptions to promote cooperation between businesses outside and businesses inside the special development zones to promote investment in special economic development zones.	Government Gazette on 5 June 2024	06-Jun-24
7.	Ministry of Finance	Royal decree issued by RD code (No. 787) B.E. 2567, Tax exemption: Tax measures to exempt income tax to promote medium and small entrepreneurs in targeted industries and located in special development zones.	Government Gazette on 5 June 2024	06-Jun-24

8.	Board of Investment (BOI)	Explanation of the Board of Investment on Requesting promotion of measures to upgrade the industry (Smart and Sustainable Industry) in the case of measures to improve efficiency in machinery modification and automation. According to the Investment Promotion Board announcement No. 15/2022	13-Jun-24	13-Jun-24
9.	Board of Investment (BOI)	Explanation of the Board of Investment on Requesting promotion of measures to upgrade the industry (Smart and Sustainable Industry) in the case of measures to improve efficiency in the use of digital technology According to the Investment Promotion Board announcement No. 15/2022	13-Jun-24	13-Jun-24
10.	Board of Investment (BOI)	Explanation of the Board of Investment on Requesting promotion of measures to upgrade the industry (Smart and Sustainable Industry) in the case of measures to improve efficiency in upgrading to Industry 4.0 according to the Board of Investment Announcement No. 15/2022.	13-Jun-24	13-Jun-24
11.	Board of Investment (BOI)	Explanation of the Board of Investment on Requesting promotion of industrial upgrading measures (Smart and Sustainable Industry) in the case of industrial upgrading measures regarding the use of automation and robots in production or service for new investment projects applying for investment promotion for businesses in Group B according to Announcement of the Investment Promotion Board No. 15/2022	13-Jun-24	13-Jun-24
12.	Board of Investment (BOI)	Explanation of the Board of Investment on Requesting promotion of measures to upgrade the industry (Smart and Sustainable Industry) in the case of measures to upgrade the industry towards Industry 4.0 for new investment projects that apply for investment promotion for businesses in Group B according to the announcement of the Promotion Board. Investment No. 15/2022	13-Jun-24	13-Jun-24
13.	Board of Investment (BOI)	Explanation of the Board of Investment on Requesting promotion of measures to upgrade the industry (Smart and Sustainable Industry) in the case of measures to improve efficiency in machinery modification and automation. According to the Investment Promotion Board announcement No. 15/2022	13-Jun-24	13-Jun-24

**1. Currently, there has been an increase offenders violating The Foreign Business Act.**

During this period, there have been cases handled by officers of the Economic Crime Suppression Division (ECD), who have placed importance on investigating offenses under the Foreign Business Act. However, after a change in government through an election, there has been a shift in focus.

Violations of the Foreign Business Act may result in imprisonment for up to 3 years, a fine ranging from 100,000 to 1 million baht, or both. The court may also order the immediate cessation of business operations that violate the law. Additionally, a daily fine of 10,000 baht, not exceeding 50,000 baht for the duration of the offense, may be imposed.

There are several actions that could be considered violations of the Foreign Business Act. These include:

- (1) A company becoming foreign-owned through an increase in capital or a change in shareholder structure.
- (2) Engaging in a business that is not explicitly prohibited under the Foreign Business Act, such as contract manufacturing or office sub-leasing.
- (3) Operates a business that is limited according to the Foreign Business Act under the investment promotion of the Office of the Board of Investment (BOI) or the Industrial Estate Authority of Thailand (IEAT), but that company did not proceed in accordance with their promotion or permission.
- (4) Obtain permission for foreign companies to operates business under the investment promotion of the Board of Investment (BOI), but operates businesses other than those that are promoted and prohibited under the Foreign Business Act.
- (5) Let Thai people be a shareholder (Nominee) to avoid the provisions of the Foreign Business Act.

"Violation of the Foreign Business Act is a common issue, often resulting from unintentional actions. It is highly advised to seek guidance from a lawyer or expert examination the status of your affiliated companies in Thailand to ensure compliance with the Act in case that you unknowingly violated the Foreign Business Act?"

**2.EEC Visa: Facilitating convenience for skilled foreign individuals and targeted groups to enter Thailand for employment, aiming to develop specific targeted industries.**

Qualification for received EEC VISA

1. Employment contract with an entrepreneur or contract with another individual stipulating work for the benefit of the entrepreneur.
2. No characteristics that would prohibit entry under immigration laws.
3. Must be certified by the entrepreneur.
4. Four types of EEC Visa:

4.1 Specialist ("S"): Individuals with knowledge and expertise relevant to the targeted industry or businesses that contribute to the development and promotion of targeted industries.

4.2 Executive ("E"): Individuals responsible for managerial duties and decision-making related to business operations.

4.3 Professional ("P"): Individuals with work experience in fields relevant to targeted industries.

4.4 Spouse and dependents ("O"): Refers to spouses and dependents of specialists, executives, or professionals.

EEC Visa grants a maximum visa validity of 10 years for specialists, executives, and professionals according to the employment contract, with a personal income tax rate of 17%.

### **3. e-Tax & e-Receipt**

e-Tax & e-Receipt involve the generation of Tax invoice including Tax invoice (ABB), Debit note, Credit note and electronic receipt with Digital Signature to be sent to the buyer and the service recipient. Additionally, it has to be submitted to the Revenue department by 15<sup>th</sup> of the following month. Those who have the right to generate e-Tax & e-Receipt must be a person or juristic person registered for VAT with an electronic certificate under the certification of NRCA and ETDA. Additionally, they must have good internal control system that can verify the correctness of the e-Tax. Furthermore, they must not be a registered entrepreneur or under consideration for e-Tax invoice by Time Stamp project.

Not only e-Tax & e-Receipt could generate the Tax invoice into online form, but the revenue department has also approved other documents include Tax invoice (ABB) Debit note, Credit note and receipt. The work process of e-Tax & e-Receipt is as follow:

1. Prepare electronic data in XML form or other form with digital signature.
2. Send to the buyer or service recipient.
3. Submit the information to the Revenue department by these 3 methods as follow

3.1 Web upload: upload the document in XML form through the website etax.rd.go.th

3.2 Service provider: submit the electronic data to the service provider certified by the Revenue department

3.3 Host to host: For the entrepreneur who need to submit large volume information (at least 500,000 copies/month) and under a supervision of Large Business Tax Administration Office.

#### 4. Criminal liability of representatives of juristic persons according to the Revenue Code, Section 90/5

Normally, if a juristic person violates the law, they will be liable according to that provision, but according to Section 90/5 of the Revenue Code It has been established that representatives of juristic persons are jointly liable with juristic persons for criminal offenses for representatives of juristic persons, which is in accordance with the newly revised Section 90/5 in accordance with the Act amending the provisions of the law regarding criminal liability of representatives of juristic persons 2017, which stipulated the criteria that “In the case where the offender under this section is a juristic person If the offense of the juristic person is caused by the order or action of the director or manager or any person responsible for the operation of that juristic person or in the case where such person has a duty to give orders or act and fails to give orders or act which causes that juristic person to commit an offense. That person must also be punished as provided for that offense.” The law intends that directors or manager or any person who is responsible for the operation of the juristic person is jointly liable for the offense committed by the juristic person only. This amendment is established for those who allege that a juristic person has committed a wrongdoing must prove that the wrongdoing was caused by the authority and duties of the juristic person's representative. If the facts are proven, the juristic person's representative must be punished according to the provisions of that offense. This is different from the previous provision where a representative of a juristic person would be liable immediately when someone accused the juristic person of committing a wrongdoing.

#### ■ 執筆弁護士

取扱分野

タイ労働法・タイ関税法・日タイ税務・  
国際税務・タイ税務調査など  
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