



Dear Readers,

This E-Bulletin provides an overview of important statutory changes in Singapore and Thailand as follows:

- SGP: Important amendments of the Employment Act
- TH: Changes of the „Thai Labour Protection Act“
- TH: Amended draft of the “Personal Data Protection Bill”
- TH: Proposed amendments of the „Revenue Code“
- TH: New Decree regarding “Cryptocurrencies & Digital Tokens”
- TH: New “Payment Systems Act”

We appreciate your feedback and look forward to hearing from you.

Best regards,

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SINGAPORE

Important Changes regarding Singapore’s Employment Act („EA“)

In March 2018, Minister for Manpower Mr Lim announced that important parts of the EA would be changed. The most significant change would be that the salary threshold under the EA of SGD 4,500 would be eliminated. Therefore henceforth the EA would also apply to the so-called “professionals, managers and executives (“PME”)”. The respective changes of the EA shall be presented to parliament in September 2018 and would then take effect on 01. April 2019.

Scope of applicability of the current EA

Currently the EA applies to local and foreign employees that work full or part-time for more than 35 hours per week. Exempted from the current scope of the EA are the so-called PME that earn more than SGD 4,500 per month. Also excepted are seafarers, domestic workers, statutory board employees and civil servants (Sec. 2 (1), (2) EA).

Summary of important changes of the EA

The main changes of the EA will be as follows:

- From 01. April 2019, with the exception of civil servants, domestic employees and seafarers, the EA will apply to all employees regardless of the salary amount they are receiving. This means that all employees covered by the EA will then have a statutory claim for all rights covered under the EA, e.g. vacation (Sec. 88 EA), sick leave (Sec. 89 A), legal redress in cases of unjustified terminations (Sec. 14 EA), maternity leave (Sec. 76, 77 EA), two days of child leave per year (Sec. 87 A) etc.

It is important to note that all of the a.m. provisions are mandatory (Sec. 8 EA), i.e. they cannot be abrogated or modified in an employment contract. The non-observance of these statutory requirements is subject to fines and jail terms (Sec. 87 EA).

- Party IV of the EA will be extended to all “mom-workmen” that draw a monthly salary of up to SGD 2,500 and
- The „Employment Claims Tribunal (“ECT”)” will be in charge of all disputes regarding salary payments as well as any terminations of an employment contract.

The upcoming changes will be of particular importance for foreign investors

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with regard to their Managing Directors and C-Suite employees, especially when they wish to terminate their employment contracts. From 01. April 2019 onwards, all statutory protections and rights will also apply to their PME regardless of their amount of salary.

At this point the exact wording of the final law remains to be seen. However we don't expect any major changes with regard to the items summarized above and will report with regard to the final outcome of the law.

THAILAND

Amendments of the Thai Labour Protection Act („LPA“)

The most important items of the LPA changes refer to the introduction for the first time of a statutory retirement age that has been fixed at 60 years of age. Once an employee reaches age 60, employers are obliged to make a severance payment to such employee, similar to a termination. The second change of the LPA refers to “work rules”: companies that have more than 10 employees are obliged to have “work rules” which now don't have to be presented to the “Ministry of Labour” anymore (Sec. 108 LPA). These changes have become effective 01.09.2017.

Draft of a “Personal Data Protection Bill („PDPB“)

After public consultations regarding amendments to the PDPB draft in January 2018, the „*Ministry of Digital Economy and Society*“ presented an amended draft version in April 2018 with the following changes:

Extra-territorial Scope and Applicability

The PDPB now regulates that data controllers and data processors will also be covered by the PDPB with regard to the collection, use or disclosure of personal data outside of Thailand, provided that

- Any part of such actions occurred in Thailand, or
- The consequence of such actions intentionally occurred in Thailand or
- The consequences of such action should occur or it could be foreseen that the consequences would occur in Thailand.

Exemption from consent requirements

The amended PDPB also provides further exemptions regarding the consent requirement:

- When this is necessary for the performance of a contract to which the data subject is a party to or
- If there is public and legitimate interest regarding the data processing.

Transfer of personal data outside Thailand

The amended PDPB allows a transfer of personal data outside Thailand only in countries that have sufficient data protection in place and that comply with a data transfer directive that the “Personal Data Protection Commission (PDCP)” shall enact in due course.

Removal of data protection certification mark

In addition, under the amended PDPB, the concept of a data protection mark has been removed. As a consequence, a data controller can no longer rely on the certification mark exemption for any data transfers outside Thailand.

Sanctions: administrative fines and imprisonment

The amended PDPB provides for various sanctions including administrative fines, where the PDCP shall have the authority to determine the amount of the



finer, taking into account the severity of the infraction. In addition, the PDCP will be entitled to commence lawsuits against data controllers and processors in the Administrative Court. In addition, the revised bill also provides the sanction of imprisonment.

Time frame for implementation

It is expected that the PDPB will be presented to the cabinet in May/June. However a detailed implementation time table has not yet been presented.

National e-Payment Master Plan – proposed changes of the Thai „Revenue Code”

As part of the National e-Payment Master Plan, the Revenue Department has presented various amendments to the Thai Revenue Code as follows:

Filing of „Withholding Tax“

The draft provides the possibility to submit the filing of withholding tax documents through electronic means.

Reporting obligations for specific transactions

Provided the requirements below are fulfilled, the RD will decide whether a transaction will be classified as “special transaction” and falls under the reporting requirements:

- At least 3.000 deposit transactions or receipts of money transfers in all bank accounts combined, or
- There will be at least 200 deposits or money transfers in all bank accounts that reach the total sum of THB 2 mio or more.

Disclosure of transaction information

According to the draft

- Financial institutions under the „Financial Institution

- Businesses Act“, and
- Financial institutions of the government set up under special laws and
- Persons that provide electronic money service under the law

will have to submit detailed information about the transactions contemplated under the amendments until March of each year to the Revenue Department.

Implementation

At this time there is no definite schedule for implementation and it remains to be seen when the draft amendments will be implemented.

New Decree regarding „Cryptocurrencies“ and „Digital Tokens”

On 13. May 2018 a new „Royal Decree on Digital Asset Business“ was published regarding matters regarding „Cryptocurrencies“ as well as „Digital Tokens“.

The Decree sets out guidelines for the offering, trading, brokerage and exchange of “cryptocurrencies” as well as “digital tokens”. The responsibility for the application and supervision of this Decree lies with the Thai “Securities and Exchange Commission”.

Violations of the Decree are sanctioned with money fines and imprisonment.

This Decree is supplemented by another Decree that addresses pertinent tax issues, providing that any share of profit or similar benefits obtained by holdings/possessing digital tokens as well as the benefits derived from any transfer of cryptocurrencies or digital tokens that exceed the amount of original investment, attract



a withholding tax of 15 %.

New “Payment Systems Act”

The new “Payment Systems Act BE 2560” became effective on 16. April 2018 and has the objective to create the statutory basis for new payment systems and to secure new electronic payment methods. An English translation of the law can be found under: <http://www.krisdika.go.th/wps/wcm/connect/489e9f804507e66882f39aefd8452bbc/PAYMENT+SYSTEMS+ACT%2C+B.E.+2560+%282017%29.pdf?MOD=AJPERES&CACHEID=489e9f804507e66882f39aefd8452bbc>

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