APRIL 2022 | ISSUE 31 | PP18667/02/2015 (034129) | WWW.BDO.MY/ASEAN

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ASEAN INVESTMENT & TAX NEWS

BDO

FOREWORD

Greetings and welcome to the first instalment of the ASEAN Investment & Tax News of 2022

The first quarter of 2022 has been interesting thus far. Countries in the ASEAN region are mulling and planning their transition to COVID-19 endemic phase this year. The Regional Comprehensive Economic Partnership (RCEP), the world's largest free trade agreement which covers 15 countries and 2.3 billion people or 30% of the world's population, came into force on 1 January 2022. This is an opportunity to revitalise businesses and economic activities post-pandemic. What is worrying, however, is the ongoing conflict in Ukraine that ASEAN is now trying to deal with, and its impact on ASEAN is too early to say.

Our tax experts continue to analyse and bring you the latest in-depth updates in ASEAN.

In this publication, we feature an article from Noel Clehane, BDO Global Head of Regulatory & Public Policy, discussing the benefits that RCEP bring to small and medium-sized enterprises (SMEs) in the agreement's 15 member countries.

We also have a guest article from UOB on how ASEAN's extensive free trade agreements (FTAs) with other countries can help you grow your business in ASEAN.

In Malaysia, we discuss the Voluntary Disclosure & Amnesty Programme for Indirect Tax effective from 1 January 2022.

Over in Cambodia, our colleagues discuss Cambodia's new law on investment which came into effect on 15 October 2021 with the aim of establishing a comprehensive, transparent and predictable legal framework to attract more investments.

In Indonesia, we discuss the appointment of stamp duty collectors who are required to collect, remit, and report the stamp duties to the Directorate General of Taxes.

Finally, in Thailand, our colleagues provide updates on investment in Thailand, guidelines on tax in relation to cryptocurrency and personal income tax.

We trust this publication will offer insights for your business and investment strategies in and around the region. BDO in our various offices across ASEAN are ready to assist you should you require any further information.

DATO' GAN AH TEE DNS JP
Regional Senior Partner
BDO in ASEAN

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FEATURE ARTICLE

SMES, DON'T BE TOO QUICK TO WRITE OFF THE RCEP

The Regional Comprehensive Economic Partnership (RCEP), which came into force on Jan 1 this year, is poised to be a game changer for small and medium-sized enterprises (SMEs) in the agreement's 15 member countries.

Consisting of all 10 Asean member states and 5 of its dialogue partners - Australia, China, Japan, New Zealand and South Korea - the RCEP covers 30 per cent of global gross domestic product (GDP), amounting to US$26.2 trillion, and 30 per cent of the world's population or 2.2 billion people, making it the world's largest free trade agreement (FTA).

Despite the RCEP's economic lure, there have been concerns among certain quarters in member countries, wary that the deal may not bring as many benefits as suggested. In particular, SMEs in developing countries such as Cambodia, Indonesia, Malaysia and the Philippines have cautioned about the global competition RCEP may expose them to.

"This (impact on SMEs) is one of our concerns - that Indonesia should improve its capability first before ratifying the RCEP," said Achmad Baidowi, a member of Indonesia's House of Representatives' Commission VI, which oversees trade and investments, in January.

While concerns about competition are valid, they may only present a narrow perspective on the entry in force of the RCEP. I am of the view that SMEs should see this particular trade deal as a boon rather than bane.

For a start, businesses in RCEP countries can enjoy up to 92 per cent of tariff reductions to access one another's goods markets.

This is in addition to the preferential market access in specific products - which include mineral fuels, plastics, other chemical products, as well as miscellaneous food preparations and beverages - in selected RCEP markets such as China and Japan.

Critics across the Asean grouping point out that their member countries already enjoy privileges in these 5 other markets through their individual Asean Plus One FTAs.

However, the RCEP builds upon these separate agreements and enhances access in certain sectors open to foreign participation in some participating markets.

This includes improved market access for Trade in Services in a significant number of sectors as well as expanded scope and commitments in new areas such as e-commerce, competition policy and intellectual property rights (IPRs).

All of this leads to cheaper access to new markets, as Singapore's Minister for Trade and Industry Gan Kim Yong said in a recent media interview.

"For the businesses, I think they can look forward to quite a lot of benefits . . . This will save costs for businesses, it will also facilitate market access." he said.

He added that since the pact will allow for greater transparency, it will also facilitate services exports in areas such as professional services, computer and business services as well as logistics and distribution.

As economies around the region bounce back from the pandemic-driven slump, this access to new markets will be crucial to individual business units.

For the large companies in the region, many of which already have vast resources and strong state linkages, 'hunting' for new markets overseas is less daunting or challenging.

The same cannot be said for smaller firms, many of which are surviving by the skin of their teeth during this downturn and who struggle to navigate the complex world of cross-border trade.

Thus, cheaper access to new markets will be even more helpful for such companies with few resources or influence to increase their exposure in new markets and pursue an expanded international customer base.

FEATURE ARTICLE

SMES, DON'T BE TOO QUICK TO WRITE OFF THE RCEP (Cont'd)

REBALANCING GROWTH AND OPPORTUNITIES

The benefits for SMEs are not just outbound in new markets, but also inbound domestically.

As mentioned, the cheaper access to new markets will spur large, capital-rich and innovative companies to invest in and establish presence in newer markets across the region.

Some may look at more developed economies such as Australia, Japan, Singapore and South Korea to gain access to an established ecosystem.

Others may find the developing economies of RCEP, such as Indonesia, Vietnam, Malaysia and the Philippines, more appealing as they can provide access to a large market, cheap labour, natural resources or raw materials.

In doing so, companies will facilitate knowledge and technology transfer from developed to developing economies. Companies may also set up production facilities in these economies, improving the productive capacities there.

These trends enhance the total factor of productivity of developing economies, inevitably leading to higher growth and incomes.

SMEs are well-placed to take advantage of these benefits, especially those in the goods, manufacturing, technology and information and communications technology (ICT) sectors.

As many large companies enter new, developing markets, they will look for partners, suppliers and vendors. These need not always be large companies and are often mid-market or SME businesses.

Regardless, the transfer of knowledge and technology will inevitably trickle down to smaller companies in the economy receiving the inbound investment, through a more sophisticated and efficient ecosystem which will develop.

This will be more nuanced in the RCEP than in the Asean Plus One agreements or other trade deals across the Indo-Pacific region because the enhanced framework of IPRs will instil more confidence and trust to facilitate such exchanges.

"Adequate IPR protection can play an important role in attracting foreign direct investment and encouraging technology transfer and knowledge spillovers," said a 2019 Organisation for Economic Co-operation and Development (OECD) paper on international technology transfer policies.

The paper goes on to quote work which provided convincing evidence that technology intensive firms are reluctant to transfer new technologies to countries with weak intellectual property laws.

Hence, SMEs across the region should adopt a positive mindset to RCEP and gear up to be a beneficiary of technology transfers within the more sophisticated and structured IPRs environment that RCEP will galvanise.

RESTORING SUPPLY CHAIN RESILIENCY

The RCEP includes comprehensive trade facilitation measures that improve clarity on goods clearance procedures at the border.

These measures will also provide more flexibility on the Rules of Origin for companies to benefit from regional supply chains. This includes establishing a single Rule of Origin criteria across all 15 countries acceding to the Partnership.

Such streamlined requirements around the Rules of Origin will particularly benefit SMEs as they will boost the local sourcing of goods.

They will also give businesses greater flexibility to tap regional supply chains as they can now source for inputs from or provide inputs to any other RCEP member. This will inevitably promote collaboration through regional value chains.

The pandemic exposed the vulnerability of existing supply chains as evidenced by the bottlenecks of even basic supplies in some countries.

As the RCEP will help increase the resilience of critically important regional supply chains, SMEs stand to benefit by being part of a more integrated trading system.

To maximise the benefits produced by the RCEP, SMEs need to shift their mindsets.

For example, in the case of leveraging more resilient supply chains, companies should be able to review existing supply sources, move away from less efficient sources, explore new markets and identify competitive advantages.

Businesses in participating countries will also need to educate themselves on the Rules of Origin and other trade measures in the RCEP in order to avail of the opportunities.

Rather than view the entry of new foreign players into the market with suspicion and solely as competitors, SMEs should actively explore opportunities for collaboration, learning and growth.

Lastly, the RCEP really gives new and tangible meaning to the age-old adage that "the world is your oyster".

SMEs across the countries should accede to the RCEP to substitute a domestic market mindset with one seeking for opportunities in the region - for new customer and source markets, as well as for new possibilities for partnership.

This will allow them to grow their business, be more competitive and productive.

NOEL CLEHANE
Global Head of Regulatory & Public Policy
BDO

GUEST ARTICLE

HOW FREE TRADE AGREEMENTS CAN HELP YOU GROW YOUR BUSINESS IN ASEAN

KEY TAKEAWAYS

- ASEAN's extensive free trade agreements (FTAs) with other countries can help businesses with overseas expansion.
- For example, FTAs help reduce export costs and lower non-tariff barriers to trade.
- Small- and medium-sized businesses can leverage on the various FTAs ASEAN offers to make their exports more competitive.

Consumers in the Asia Pacific region are ready to spend. In 2020, the region represented two-thirds of global e-commerce spending. A key driver behind this trend was intra-regional exports – contributing 60 per cent of trade in the region, according to data from the United Nations Conference on Trade and Development (UNCTAD).

However, there is a common misconception that FTAs are only applicable to large businesses. In fact, small- to medium-sized enterprises (SMEs) may tap into this sizeable opportunity by leveraging FTAs to lower export costs and non-tariff barriers. If you are an SME, read on to find out how your business can benefit from recent agreements that actively protect smaller businesses.

WHAT ARE FTAS?

A free trade agreement is a pact between two or more countries to reduce import and export barriers. These treaties grant preferential access to specific sectors of a country by exempting certain categories of businesses from customs duties and taxes.

FTAs help reduce non-tariff barriers to trade – the intangibles that may deter companies from expanding abroad. These include providing transparency and clear documentation via online facilities and avoiding duplication in testing or qualification requirements. Such arrangements can also reduce the time required for customs clearance by introducing a mechanism that allows for advanced classification of goods before shipping – reducing potential complexities at customs.

Exporters may even participate in the rule of law for product standards in the FTA partner country if none exist at that time. For instance, the Asia Pacific Economic Cooperation (APEC) Food Safety Cooperation Forum (FSCF) helps APEC countries harmonise food standards consistent with international standards. These standards are vital for more transparency in cross-border trade and protection of consumers in FTA partner countries.

To protect intellectual property, FTAs promote enhanced IP rights and encourage trade partners to adopt IP protections. This makes it easier for businesses to search, register and protect their brands and trademarks in new markets. For dispute cases with a host state, a company can seek recourse through a neutral avenue.

Some FTAs also offer intellectual property (IP) protection by allowing companies to file a single copyright or patent that applies across two or more countries. This helps technology companies safeguard against IP theft or piracy when exporting their know-how abroad.

GUEST ARTICLE

HOW FREE TRADE AGREEMENTS CAN HELP YOU GROW YOUR BUSINESS IN ASEAN (Cont'd)

HOW CAN ASEAN SMES BENEFIT FROM FTAS?

ASEAN, as a region, has six free trade agreements with China, India, Korea, Japan, Hong Kong, and Australia-New Zealand. There are also FTAs negotiated by individual ASEAN member countries with their major trading partners.

COUNTRY	NUMBER OF FTAs
Brunei	10
Cambodia	7
Indonesia	12
Lao PDR	9
Malaysia	16
Myanmar	7
The Philippines	9
Singapore	26
Thailand	14
Vietnam	14

Table 1: Number of FTAs available in each ASEAN country. Source: Asia Regional Integration Centre, information extracted from website as of 20 August 2021

The ASEAN Free Trade Area (AFTA) covers trade in goods and services, and investments through three agreements:

1. ASEAN Trade in Goods Agreement (ATIGA)
2. ASEAN Framework Agreement on Services (AFAS)
3. ASEAN Comprehensive Investment Agreement (ACIA)

ATIGA eliminates tariffs across virtually all major product lines, while AFAS provides market liberalisation across the widest coverage of service sectors in ASEAN, including professional services, telecommunications, financial services, computer and related services, distribution, and logistics services. The ACIA offers protection for investors and investments in ASEAN, helping to create a more transparent, facilitative and secure environment for investors.

The latest Regional Comprehensive Economic Partnership (RCEP) agreement has contributed to forming the biggest trade bloc. It has been signed by countries in the Asia Pacific region, involving all 10 ASEAN member countries, China, Japan, South Korea, Australia and New Zealand, covering 15 countries or 30 per cent of the world's GDP.

One essential feature of RCEP is the concept of 'regional cumulation' in its rules of origin, whereby raw materials from any of the RCEP member countries can be used as originating content.

As a result, SMEs in ASEAN may enjoy direct access to larger markets in the region such as China. Moreover, with the new rules of origin, businesses can source raw materials from a larger pool of suppliers and still maintain a single certificate of origin. For example, a Singapore SME may source for products from the region, retain its Singapore certificate of origin, and take advantage of beneficial trade agreements in Singapore.

WHAT BUSINESSES SHOULD CONSIDER WHEN USING FTAS

1 Approach the relevant government agencies and local partners

ASEAN's member nations have different governing bodies that help support large companies and SMEs with FTA guidelines.

The Singapore Business Federation (SBF) assists local businesses to improve their global competitiveness through Singapore's FTAs. There is a specialised team within SBF that conducts seminars and training to improve the understanding of FTAs, and also addresses any FTA-related enquiries or issues businesses may encounter under its one-stop advisory centre.

Indonesia has several agencies that are focused on specific areas of collaboration with FTA partner countries. The Indonesian Chamber of Commerce and Industry (Kadin) works with FTA-member nations to create training, research and assistance. An alliance between the Canada–Indonesia Trade and Private-Sector Assistance (TPSA) project and the Ministry of Trade Indonesia helps support Indonesian SMEs with various trade-related tools and information such as trade policy analysis, trade and investment promotion to Canada.

In Malaysia, the Ministry of International Trade and Industry (MITI) provides guidance for manufacturers or exporters looking to apply for a Preferential Certificate of Origin. In addition, MITI and the related agencies, MATRADE and SME Corp, regularly organise public outreach programmes around FTA updates.

2 Determine your product code before checking tariff rates

Every product traded internationally has a classification code. This code is based on the Harmonised System (HS), a standardised numerical method set up by the Customs Cooperation Council, renamed World Customs Organisation (WCO) to classify trade products. Customs authorities worldwide use the 6-digit HS codes to identify which tariffs apply to the product.

ASEAN member states align their HS-codes at the 8-digit level based on the ASEAN Harmonised Tariff Nomenclature. Border controls would impose tax and duties on products based on the HS code and these codes are reviewed by the World Customs Organisation once every five years.

3 Find the most relevant FTA for your target market

Singapore leads ASEAN in the number of FTAs it has with its major trading partners. Its 26 FTAs are with countries that collectively cover 90 per cent of the country's trade. For some markets, there is more than one FTA; for instance, exporters to China can consider the ASEAN-China FTA, the China-Singapore FTA, and soon, the RCEP that is pending ratification.

GUEST ARTICLE

HOW FREE TRADE AGREEMENTS CAN HELP YOU GROW YOUR BUSINESS IN ASEAN (Cont'd)

4 Check your product's Rules of Origin (ROOs)

Each FTA has its own set of Rules of Origin to determine whether the item has undergone sufficient processing in the origination country or was wholly obtained in a certain country under the FTA, to qualify for duty-free or lower duty benefits. Note that an item that qualifies for a certain FTA may not be able to qualify as an originating good in other FTAs.

ROO is FTA- and product-specific, so some products that qualify under an FTA can pay lower or no import tariff into another FTA-member country. Businesses that wish to acquire a certificate of origin will need to register with a customs agency in their home country.

ASEAN MEMBER COUNTRY	CERTIFICATE OF ORIGIN (CO) ISSUING AUTHORITY
Brunei	Ministry of Foreign Affairs and Trade
Cambodia	Ministry of Commerce
Indonesia	Ministry of Trade (Directorate General of Foreign Trade)
Lao PDR	Ministry of Commerce (Directorate of Import and Export Office No. 1)
Malaysia	Ministry of International Trade and Industry (Trade Services Division)
Myanmar	Ministry of Commerce (Directorate of Trade)
The Philippines	Bureau of Customs (Export Coordination Division)
Singapore	Singapore Customs (Documentation Specialist Branch)
Thailand	Ministry of Commerce (Department of Foreign Trade)
Vietnam	Ministry of International Trade

Table 2: Government bodies in charge of issuing a Certificate of Origin (CO).
Please note that self-certification is accepted by all member countries.
Source: ASEAN Briefing, Dezan Shira & Associates

For many of the FTAs in Singapore, exporters would need to register their manufacturing premises with the Singapore Customs, submit a manufacturing cost statement, and apply for a preferential certificate of origin through TradeNet. Some FTAs, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), Singapore-Australia FTA, and US-Singapore FTA, allow for self-declaration without the need to apply through Singapore Customs.

COMMON MISCONCEPTIONS AROUND FTAS

There is a common belief that FTAs are only suitable for organisations that have existing multinational networks.

However, these multinationals are often able to serve a market that levies steep tariffs by sourcing from an affiliate in a third country that has a more favourable tariff agreement with the importing country. This reduces the need for assistance in the form of an FTA's lower tariff arrangements.

SMEs often do not have this global network to draw upon. FTAs help lower these trade barriers by introducing favourable tariffs and streamlining documentation requirements. Standardisation of trading platforms also simplify rule of origin requirements and lower export costs to new markets.

Tariff arrangements may also make exports more competitive in FTA partner countries and enhance market protection for small businesses in key industries.

In fact, several pioneering FTAs are building more inclusive provisions to support SMEs. Given that SMEs form the backbone of the region's trade, these FTAs assist SME exporters with trade education and trading programmes.

The CPTPP is one of the first FTAs to include a chapter on ensuring the protection of small businesses.

Such measures, coupled with active local promotion of FTAs by various government agencies, can ensure that SMEs benefit from Asia Pacific's economic growth and strong intra-regional trade links.

UOB is a strategic partner of Singapore Business Federation (SBF) in the GlobalConnect@SBF initiative and supports the internationalisation activities of Singapore businesses in key overseas destinations in Asia, particularly the ASEAN region. UOB is also working with SBF to help businesses with any FTA-related enquiries or issues under its one-stop advisory centre.

Source: UOB ASEAN Insights, 22 November 2021
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NEWS

CAMBODIA:

PROMULGATION OF THE LAW ON INVESTMENT

The New Law on Investment ("New Investment Law") was announced and became effective from 15 October 2021 to replace the existing 1994 Law on Investment and the 2003 Law on the Amendment to the Law on Investment. The New Investment Law aims to provide a comprehensive, transparent and predictable legal framework to attract both domestic and foreign investment. Some of the key features of the New Investment Law are as follows:

NEW PROCEDURE FOR REGISTRATION OF AN INVESTMENT PROJECT

Under the New Investment Law, an online registration process for Qualified Investment Project ("QIP") applications is introduced. Furthermore, the Conditional Registration Certificate ("CRC") issued prior to issuance of a Final Registration Certificate, will be replaced with a single registration certificate ("Registration Certificate"), which will contain machine-readable bar/QR code. The timeline for issuance of a Registration Certificate is shortened to 20 working days.

The New Investment Law also clarifies that an investment project that has received a Registration Certification can be implemented automatically but the certificate does not relieve the applicant from the obligation to apply for other licenses and permits required under Cambodian law.

NEW ENCOURAGED SECTORS

In order to make Cambodia a more attractive investment destination, the New Investment Law provides investment incentives and guarantees for investment projects that:

1. Contribute to skills training, research and development and innovation;
2. Nurture the growth of small to medium sized enterprises ("SMEs") by providing support to SMEs via skills training, staff incentives and investment in machinery or production equipment;
3. Establish large industrial parks and commercial hubs;
4. Promote more active participation by the private sector in the development of physical infrastructure;
5. Promote the logistics and digital industry sectors; and
6. Contribute to environmental management and protection as well as biodiversity conservation.

INVESTMENT INCENTIVES

The New Investment Law provides 3 types of incentives:

1. **Basic incentives**
   - a. Income tax exemption for 3 to 9 years for specific investment sectors and activities.
   - b. Deduction of certain expenditures, including capital depreciation and certain significant expenditure at a rate of 200% for 9 years.
   - c. Export QIP and supporting QIP are eligible for customs duty, excise tax and VAT exemptions for the import of construction equipment and materials, production equipment and materials and production inputs.
   - d. Domestic QIP is eligible for customs duty, excise tax and VAT exemptions for the import of construction equipment and materials as well as production equipment and materials.
2. **Additional incentives**
   - a. VAT exemptions for the purchase of locally produced production inputs; and
   - b. Deduction of expenses at a rate of 150% related to, among other things, research, development, innovation and human resource development.
3. **Special Incentives**
   Projects that have high potential to contribute to national economic development will be eligible for special incentives. The types of projects and incentives will be listed in the law on financial management.

INVESTMENT GUARANTEES AND PROTECTIONS

Under the New Investment Law, investors are eligible for certain investment guarantees and protections, including but limited to:

1. Compensation for loss of income as a result of civil war, armed conflict and a state of national emergency;
2. Fair treatment for domestic and foreign investors, with restriction on land ownership by foreign investors remaining unchanged;
3. Protection against nationalisation or expropriation;
4. Restriction against pricing regulation;
5. No restriction on foreign exchange control and profit repatriation; and
6. Intellectual property protection.

EXPANSION OF A QIP PROJECT

Under the New Investment Law, investors can register their QIP projects as an expansion of a qualified investment project ("EQIP") and a project that is eligible for only an investment guarantee ("IGP") with the Council for the Development of Cambodia ("CDC") or the Provincial/Municipal Investment Sub-committee ("PMIS"). An EQIP that is registered with the CDC or PMIS is entitled to receive investment incentives under New Investment Law.

CANCELLATION OF AN INVESTMENT PROJECT

Under the New Investment Law, the CDC is granted the rights to cancel a QIP on certain grounds, including the failure by the investor to perform its obligations under the relevant laws and regulations. However, the New Investment Law does not provide any explicit grace period for the investor to remedy their defaults.

NEWS

INDONESIA:
APPOINTMENT AS STAMP DUTY COLLECTORS

To implement Law No. 10 Year 2020 regarding Stamp Duty, the Indonesian Tax Authority has recently issued the Ministry of Finance ("MoF") Regulation No. 151 Year 2021 on the determination of Stamp Duty Collectors and procedures for the collection, payment, and reporting of Stamp Duty.

CRITERIA

Directorate General of Taxes may appoint taxpayers as Stamp Duty Collectors by issuing an appointment letter based on the following criteria:

1. The taxpayers facilitate the issuance of commercial papers in the form of cheques and demand deposit (bilyet giro);
2. The taxpayers issue and/or facilitate the issuance of the following documents with a minimum of 1,000 documents per month:
   a. securities transaction documents, including document of future contract transaction, in any name and form;
   b. Certificates and/or statement letters, or other similar letters with their duplicates; and
   c. Documents stating an amount of money above IDR 5 million (five million Indonesian Rupiah) which mention the receipt of money or include acknowledgement of debts settlement and/or repayment.

Taxpayers who meet the above criteria may be appointed as Stamp Duty Collectors by the Indonesian Tax Authority or Directorate General of Taxes.

VOLUNTARY DISCLOSURE

Taxpayers who meet the criteria but have not been appointed as Stamp Duty Collectors may submit a voluntary disclosure in the form of a notification letter submitted through email, application, or system provided by the Directorate General of Taxes. Further, the notification letter will be used for consideration of appointment of taxpayers as Stamp Duty Collectors.

Once appointed, Stamp Duty Collectors are required to collect, remit, and report the stamp duties to the Directorate General of Taxes with a flat rate of IDR 10,000 (ten thousand Indonesian Rupiah) for each stamp duty.

SANCTIONS

If Taxpayers fail to carry out the collection obligations, a tax assessment letter will be issued with the amount of stamp duties that are uncollected, under collected, unpaid or underpaid plus an administrative sanction of 100% of the stamp duty payable.

NEWS

MALAYSIA:

VOLUNTARY DISCLOSURE & AMNESTY PROGRAMME ("VA PROGRAMME") FOR INDIRECT TAX INVESTMENT AND TAX UPDATES

As proposed in the Malaysian Budget 2022, the Royal Malaysian Customs Department ("RMCD") has implemented a Voluntary Disclosure and Amnesty Programme ("VA Programme") for indirect tax effective from 1 January 2022.

The VA Programme Guideline which was issued by the RMCD on 3 January 2022 provides the scope, application procedures and implementation details to the general public.

This is a one-off programme by the Government which provides an opportunity for companies/individuals to make a voluntary disclosure, in good faith, of any undeclared duty/tax/levy/penalty or liabilities outstanding on or before 31 October 2021 to enjoy benefits of up to 100% remission of penalty plus potential tax remission.

Companies/individuals are also encouraged to participate in this programme to correct any errors made on indirect tax. The timeframe and applicable incentives offered by the RMCD is as follows:

PHASE	PERIOD	PENALTY REMISSION	TAX REMISSION
1	1 January 2022 – 30 June 2022 (6 months)	100%	10%/20%/30%
2	1 July 2022 – 30 September 2022 (3 months)	50%	5%/10%/15%

The VA Programme covers Sales Tax & Service Tax (SST 1.0 & 2.0), Import Duty, Export Duty, Excise Duty, Goods and Services Tax (GST), Tourism Tax and Departure Levy. The two categories for the implementation of this programme are as follows:

(1) VOLUNTARY DISCLOSURE	(2) AMNESTY
On errors unknown or undiscovered by the RMCD.	On offences that have been identified by RMCD and Bill of Demand (BOD) will be / have been issued.

Under the Voluntary Disclosure, the RMCD has assured taxpayers that activities and periods that have been disclosed under this programme will not be audited in the future unless there is strong evidence of fraud. In addition, those who participate in this programme are assured that they will not be audited within one year from the date the programme ends.

Under the Amnesty programme, any company/individual who has arrears of tax/duty/levy/penalty/surcharge on any Bill of Demand ("BOD") issued for the coverage period up to 31 October 2021 is eligible for the special amnesty subject to the stipulated conditions set by the RMCD. A blanket approval will be granted by the RMCD for up to 100% remission on any outstanding penalty/surcharge and for 10% incentives on any tax/duty/levy payable on or before 31 October 2021.

In recent years, many changes were made to the laws and guidelines governing the abovementioned indirect taxes, as well as the practical application of the rules. Consequently, it has been challenging for many businesses to be in full compliance with the requirements and interpretations of the RMCD.

This is the first time, the RMCD has implemented a formal voluntary disclosure scheme. In the past, voluntary disclosures were handled on a case-by-case basis. The absence of any guidelines on penalty waivers has resulted in businesses being reluctant to disclose any errors to the RMCD due to the uncertainty and lack of transparency. Hence, this VA Programme is a welcomed tax measure to encourage greater indirect tax compliance.

NEWS
THAILAND:
INVESTMENT AND TAX UPDATES

INVESTMENT

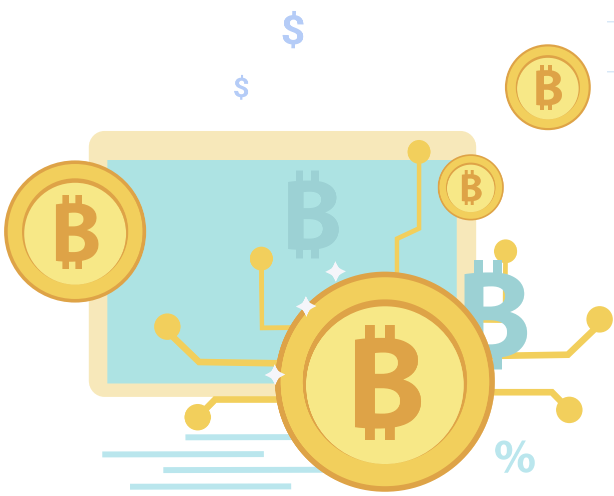
Based on the Board of Investment ("BOI") reports, the investment promotion applications in 2021 increased by 59% as compared to the same period of prior year. The total investment value was 642.7 billion Baht (approximately 20 billion USD). The increase was attributed mainly to investments in Bio-Circular-Green (BCG) industries, power generation and technology sectors.

The BCG model focuses on promoting four industries, as follows:

(i) agriculture and food;
(ii) medical and wellness;
(iii) bioenergy, biomaterial and biochemical; and
(iv) tourism and creative economy.

Electrics and electronics topped the list of target sectors with 104.5 billion Baht in value, followed by the medical sector, petrochemicals and chemicals, agriculture and food processing, and automotive and parts. The fastest-growing sector was digital.

BOI also approved additional incentives for existing promoted companies that made additional investments in the original projects. The incentives include "increase in the limit and period of CIT exemption", which will receive an additional limit for CIT exemption from 100 – 300% for a period of 1-3 years for investments in research and development (R&D), technology and innovation.



TAX

Cryptocurrency

The Thailand Revenue Department has provided guidelines for calculating income derived by individuals from trading cryptocurrencies and similar digital assets. The methods of calculation are First-In-First-Out (FIFO) or moving average method and the individuals are required to include the income in their tax returns for FY 2021. The due date for submitting the 2021 tax returns is on 31 March 2022. Additionally, the guidelines also clarify deduction of expenses and offsetting losses for calculation of income.

Personal Income Tax

The Cabinet approved the lowering of withholding tax to 17% for highly skilled foreign professionals in the target industries and exempt wealthy foreigners, wealthy foreign pensioners, and high-skilled foreigners with long-term residency visas from being taxed on income or assets earned before moving to Thailand. The incentives are granted to promote investment in the Eastern Economic Corridor, which will allow companies to attract high skilled foreign professionals.

It must be noted that this is currently an approval by the Cabinet only. This will be effective once the formal regulation is issued and published in the official gazette.

BDO is one of world's largest professional services firm and the fastest growing international network of accounting firms with more than 95,000 partners and staff working in 1,713 offices operating across the globe in 164 countries and territories.

BDO has a dedicated team of Tax specialists who are committed to delivering a consistently high quality of services. With a wealth of global resources within our grasp while possessing an in-depth understanding of local business needs and regulations, combined with the quality of staff and experience with clients, multi range of industries and projects, we can provide excellent value proposition for any business.

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ASEAN Investment & Tax News is published by:
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