

ASEAN INVESTMENT & TAX NEWS

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FOREWORD

Greetings and welcome to the fourth and final instalment of the ASEAN Investment & Tax News for 2021.

The COVID-19 pandemic continues to affect ASEAN countries' growth plans. Based on the Asian Development Outlook 2021 Update (September 2021) by Asian Development Bank, the 2021 growth rate for ASEAN is expected to be lower at 3.1%, compared to its previous forecast of 4.4%.

Vaccination and travel bubbles continue to be key topics. Several ASEAN countries have been working towards establishing travel bubbles between the countries.

More recently, climate change has also topped the agenda at the 35th ASEAN Capital Markets Forum Chairs' Meeting hosted virtually by the Brunei Darussalam Central Bank. In conjunction with the 26th Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change ("COP26"), the ASEAN Taxonomy Board ("ATB") released the ASEAN Taxonomy for Sustainable Finance (ASEAN Taxonomy) – Version 1. This initiative provides a frame for discussions with official sector and private sector stakeholders to work together on the development of the ASEAN Taxonomy.

In this publication, our tax experts continue to analyse and bring you the latest in-depth updates in ASEAN.

Malaysia takes its place as the feature article this month as we discuss the key tax proposals of Budget 2022 which was unveiled on 29 October 2021, which focuses on bolstering economic recovery, resilience and reforms.

We also feature an article from UOB on what to consider when setting up a distribution centre. Companies looking

to diversify their supply chains post-pandemic can consider ASEAN countries such as Singapore, Malaysia and Thailand, which offer a good mix of cost effectiveness and competitive business growth.

Over in Cambodia, we look at the Prakas 542 MEF.P on Rules and Procedures for the Implementation of VAT on E-Commerce passed on 8 September 2021 and the Competition Law issued on 5 October 2021.

In Indonesia, we highlight the summary of the Tax Harmonisation bill, which was approved by Parliament on 7 October 2021 and aimed to support tax reforms in Indonesia.

Meanwhile in Myanmar, we discuss the Union Tax Law 2021 which came into effect on 1 October 2021 and its key changes relating to income tax, personal income tax, commercial tax, specific goods tax and gemstone tax.

In Singapore, our colleagues talk about the updated Singapore-Indonesia Double Taxation Agreement which came into effect on 23 July 2021.

Finally, in Thailand, our colleagues provided updates on the new investment incentives designed to accelerate Thailand Industry 4.0 transformation as well as updates on the new regulations of transfer pricing.

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.

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FEATURE ARTICLE: MALAYSIA

MALAYSIA BUDGET 2022

The Finance Minister has presented the Budget 2022 in the Parliament of Malaysia on 29 October 2021. The theme of Budget 2022 is “*Keluarga Malaysia, Makmur Sejahtera*” which focus on wellbeing of Malaysian, resilient businesses and a prosperous and sustainable economy.

Some of the key tax proposals of the Budget 2022 are as follows:



AREAS	PROPOSALS
Corporate Tax	
Taxation of foreign sourced income received in Malaysia	Foreign sourced income received in Malaysia by a resident in Malaysia shall be subject to tax from 1.1.2022 onwards.
Introduction of prosperity tax “Cukai Makmur”	Companies which are not small and medium enterprises shall be subject to a one-off special tax at 33% on chargeable income in excess of RM100 million in Year of Assessment (“YA”) 2022.
Review of tax treatment on unabsorbed business losses	Time limit to carry forward unabsorbed business losses effective from YA 2019 shall be increased from 7 to 10 consecutive YAs.
Extension of Reinvestment Allowance (“RA”) Incentive	RA period shall be extended for another 2 years i.e. YA 2023 and 2024 for the existing resident companies that have exhausted their RA claim of 15 years and an additional 3 years from YA 2020 to YA 2022.
Extension of special tax deduction for rental reduction for business premises	Special tax deduction given to landlords who provide a rental reduction of at least 30% for business premises used by tenants for business purposes shall be extended for another 6 months from 1.1.2022 to 30.6.2022.
Personal Tax	
Taxation of foreign sourced income received in Malaysia	Foreign sourced income received in Malaysia by a resident in Malaysia shall be subject to tax from 1.1.2022 onwards.
Extension of special relief for purchase of personal computer, smartphone and tablet	Tax relief of up to RM2,500 for purchase of personal computer, smartphone and tablet shall be extended to YA 2022.
Extension of tax relief for domestic tourism expenditure	Special tax relief of up to RM1,000 for domestic tourism expenses incurred shall be extended to YA 2022.
Expansion of scope on medical expenses for serious diseases	Existing tax relief for full medical check-up of RM1,000 shall be expanded to include COVID-19 detection test and self-detection test kit and cost of check-up or consultation services related to mental health from YA 2022 onwards.
Tax Incentives	
Tax incentives for Digital Ecosystem Acceleration Scheme	The following tax incentives shall be given to providers of digital technology and digital infrastructure with applications received by Malaysian Investment Development Authority (“MIDA”) from 30.10.2021 to 31.12.2025: <ul style="list-style-type: none"> i. Digital technology provider <ul style="list-style-type: none"> a) New company – income tax rate from 0% to 10% for 10 years b) Existing company which diversifies into new services or new service segments – income tax rate of 10% for 10 years ii. Digital infrastructure provider – investment tax allowance (ITA) of 100% on qualifying capital expenditure for 10 years to set-off against 100% of statutory income.

FEATURE ARTICLE: MALAYSIA

MALAYSIA BUDGET 2022 (Cont'd)

Expansion of scope of green technology tax incentives	<p>The following tax incentives be expanded to include Rainwater Harvesting System ("RHS") projects certified by the Malaysian Green Technology Corporation with applications received by MIDA from 1.1.2022 to 31.12.2023:</p> <ol style="list-style-type: none"> i. Green Investment Tax Allowance ITA of 100% on qualifying capital expenditure for qualifying RHS projects to be set-off against 70% of statutory income; or ii. Green Investment Tax Exemption Income tax exemption of 70% of statutory income for qualifying RHS project services. 															
Real Property Gains Tax																
Review of Real Property Gains Tax ("RPGT") for individual, permanent resident and person other than company	<p>RPGT rate imposed on gains from disposal of real property and shares in real property company by individual, permanent resident and person other than company shall be reviewed as follows:</p> <table border="1" data-bbox="691 922 1409 1151"> <thead> <tr> <th style="background-color: #f28b82;">Disposal take place after the date of acquisition</th> <th style="background-color: #f28b82;">Existing rate</th> <th style="background-color: #f28b82;">Effective 1 Jan 2022</th> </tr> </thead> <tbody> <tr> <td>Within 3 years</td> <td>30%</td> <td>30%</td> </tr> <tr> <td>In the 4th year</td> <td>20%</td> <td>20%</td> </tr> <tr> <td>In the 5th year</td> <td>15%</td> <td>15%</td> </tr> <tr> <td>In the 6th year and thereafter</td> <td>5%</td> <td>0%</td> </tr> </tbody> </table>	Disposal take place after the date of acquisition	Existing rate	Effective 1 Jan 2022	Within 3 years	30%	30%	In the 4 th year	20%	20%	In the 5 th year	15%	15%	In the 6 th year and thereafter	5%	0%
Disposal take place after the date of acquisition	Existing rate	Effective 1 Jan 2022														
Within 3 years	30%	30%														
In the 4 th year	20%	20%														
In the 5 th year	15%	15%														
In the 6 th year and thereafter	5%	0%														
Stamp Duty																
Review of stamp duty on contract note for trading listed stock	Stamp duty charge on contract note for trading of shares listed on Bursa Malaysia shall be increased from 0.1% to 0.15% for every RM1,000, and the stamp duty limit to RM200 for each relevant contract note shall be abolished with effect from 1.1.2022.															
Extension of stamp duty exemption for Small Medium Enterprises ("SMEs") on any instrument executed for merger and acquisitions	Stamp duty exemption on the certain instruments in relation to merger and acquisition executed by qualified SMEs from 1.7.2020 to 31.12.2021 shall be extended to 31.12.2022 and the applications shall have to be received by Ministry of Entrepreneur Development and Cooperatives from 1.7.2021 to 30.6.2022.															
Sales Tax																
Extension of sales tax exemption on passenger vehicles	Sales tax exemption of 100% for locally assembled and 50% for imported passenger vehicles including sport-utility vehicle and multi-purpose vehicle which is given from 15.6.2020 to 31.12.2021 shall be extended to 30.6.2022.															
Revocation of sales tax exemption on imported low value goods (LVGs)	Sales tax exemption given on imported LVGs i.e. goods with value not > RM500 (except for cigarettes, tobacco and intoxicating liquor) using air courier services through designated international airports shall be revoked with effect from 1.1.2023.															
Imposition of sales tax on LVGs	Sales tax shall be imposed on imported LVGs sold to consumers in Malaysia by sellers from Malaysia or abroad. Sellers shall be required to register and charge sales tax with effect from 1.1.2023.															
Service Tax																
Expansion of scope for service tax on goods delivery services	Service tax shall be imposed on goods delivery services including E-commerce platforms except for food and beverages delivery services and logistic services with effect from 1.7.2022.															
Service tax exemption on brokerage services related to the trading of listed shares	Service tax exemption shall be given in respect of brokerage services related to the trading of shares listed on Bursa Malaysia with effect from 1.1.2022.															

FEATURE ARTICLE: MALAYSIA

MALAYSIA BUDGET 2022 (Cont'd)

Excise Duty	
Expansion of scope for excise duty on sugary beverages	The scope of excise duty on sugary beverage products be expanded to include pre-mixed preparations with chocolate or cocoa base, malt, coffee and tea with sugar content >33.3g/100g with effect from 1.4.2022.
Excise duty on liquid or gel used for electronic cigarettes and vape	Excise duty of RM1.20 per millilitre be imposed on liquid or gel products containing nicotine used in electronic cigarettes and vapes; and increased of excise duty from RM0.40 to RM1.20 per millilitre for non-nicotine liquid or gel with effect from 1.1.2022.
Other Indirect Taxes	
Indirect Taxes exemption on electric vehicles ("EVs")	EVs shall be given following indirect taxes exemptions – <ol style="list-style-type: none"> Full import duty exemption on components for locally assembled EVs from 1.1.2022 to 31.12.2025 Full excise duty and sales tax exemption on completely-knock-down unit from 1.1.2022 to 31.12.2025 Full import duty and excise duty exemption on imported completely-build-up unit from 1.1.2022 to 31.12.2023
Extension of tourism tax exemption	The exemption of tourism tax of RM10.00/room/night imposed on foreign tourists for the period 1.7.2020 to 31.12.2021 shall be extended to 31.12.2022.
Extension of entertainments duty exemption in the Federal Territories	Entertainments duty exemption on admission fees to entertainment venues in the Federal Territories from 1.4.2021 to 31.12.2021 shall be extended to 31.12.2022.



GUEST ARTICLE FROM UOB ASEAN INSIGHTS

"MALAYSIA, SINGAPORE, THAILAND: WHAT TO CONSIDER WHEN SETTING UP A DISTRIBUTION CENTRE"

KEY TAKEAWAYS

- Companies looking to diversify their supply chains post-pandemic can consider ASEAN countries such as Singapore, Malaysia and Thailand, which offer a good mix of cost effectiveness and competitive business growth.
- When choosing a regional distribution centre, businesses should consider where their key customers are located, and what network and connectivity options are available.
- Besides making supply chains more resilient to disruptions, regional distribution centres can offer value-added services such as repackaging and quality control checks to cater to local requirements.

The grounding of the mega container Ever Given in the Suez Canal for six days in March once again highlighted the fragility of supply chains. The incident was the latest in a string of events that have caused disruptions to the global supply chain since the outbreak of the COVID-19 pandemic. The worldwide supply crisis, and ensuing demand shock when countries started shutting down, exposed vulnerabilities in the supply chain and production strategies of many multinationals.

In an interview with UOB FDI Advisory, Jerome Gillet, CEO, DHL Supply Chain

Singapore, Malaysia and the Philippines, asserts that the time is ripe for businesses to rethink their global supply chain strategy and meet changing consumer preferences.

For companies looking to diversify their supply chains post-pandemic, Gillet believes that ASEAN member countries offer a good mix of cost effectiveness and competitive business growth.

To be closer to the customer, companies should consider building one or two more regional distribution centres (RDCs) near end-markets. Being closer to the customer

means speedy fulfilment and faster response times to cater to local demand.

In addition, having another RDC provides a contingency plan should there be supply chain disruptions. Besides enhancing distribution capabilities, RDCs also offer the ability to provide value-added services such as repackaging and quality control checks to cater to local customer requirements.

Across ASEAN, member countries such as Indonesia, Vietnam, Singapore, Malaysia and Thailand are popular sites for RDCs. In this article, we review three possible locations for your next RDC.

“Diversification is a major theme as many companies look to diversify their suppliers to multiple locations and to be nearer to their key customer markets so that they can continue to operate even if borders are closed.”

Jerome Gillet
CEO, DHL Supply Chain
Singapore, Malaysia and
the Philippines



GUEST ARTICLE

FROM UOB ASEAN INSIGHTS

"MALAYSIA, SINGAPORE, THAILAND: WHAT TO CONSIDER WHEN SETTING UP A DISTRIBUTION CENTRE" (Cont'd)

WHERE SHOULD YOUR NEXT RDC BE?

	Singapore	Malaysia	Thailand
Business ecosystem	<ul style="list-style-type: none"> Ranked #2 in ease of doing business Highly educated and diverse talent pool Strong research and development (R&D) capability High operational efficiency, with a strong innovation ecosystem 	<ul style="list-style-type: none"> Ranked #12 in ease of doing business Multilingual and talented workforce Business-friendly ecosystem and policies Has several free trade zones including the Digital Free Trade Zone (DFTZ) 	<ul style="list-style-type: none"> Ranked #21 in ease of doing business Skilled and cost-effective workforce Continued investments in multi-modal infrastructure offering greater diversity of transport options
Network and connectivity	<ul style="list-style-type: none"> World-class connectivity - linked to more than 600 ports in 123 countries with 200 shipping lines Ranked #7 globally, and #2 in Asia under the Logistics Performance Index 2018 	<ul style="list-style-type: none"> Developed logistics network and port infrastructure with seven major ports. The Penang port is the oldest and longest established port in Malaysia. Ranked #41 globally, and ranked #9 in Asia under the Logistics Performance Index 2018 	<ul style="list-style-type: none"> Extensive road transportation network, connecting Indochina with the South China region The Eastern Economic Corridor (EEC) project offers US\$43 billion of infrastructure investment projects including public transport, airport expansion and seaport development Ranked #32 globally, and #7 in Asia under the Logistics Performance Index 2018

**Information accurate as of March 2021*

SINGAPORE – REGIONAL HUB FOR GLOBAL PLAYERS



Multinational logistics providers such as DHL appreciate the robust infrastructure, quality of talent and strong government support that Singapore offers.

"Singapore still ticks all the boxes for a strong regional distribution centre," says Gillet.

The island state is home to the world's busiest maritime transport network – connected to more than 600 ports in 123 countries. Singapore's Changi Airport is one

of Asia's largest cargo airports. Although the local market is small, Singapore has focused on its role as a transshipment hub connecting port lines between countries and providing value-added services such as contract logistics that provide end-to-end solution for companies.

GUEST ARTICLE FROM UOB ASEAN INSIGHTS

"MALAYSIA, SINGAPORE, THAILAND: WHAT TO CONSIDER WHEN SETTING UP A DISTRIBUTION CENTRE" (Cont'd)

SINGAPORE – REGIONAL HUB FOR GLOBAL PLAYERS (Cont'd)

"The support from the Singapore Government has been amazing. Feedback was welcomed and even sought when new policies were rolled out to adapt to the new normal."

Jerome Gillet

Singapore places an emphasis on innovating its supply chain capabilities to better support customers. For example, DHL's Asia Pacific Innovation Centre in Singapore houses a design thinking studio and looks at logistics innovations such as smart glasses for warehouse assembly lines and drones for delivery of time-critical goods. In addition, the city continues to build its logistics connectivity for products that are time-sensitive and that need a highly reliable supply chain.

During the pandemic, the Government pro-actively helped logistics companies continue their operations. Says Gillet: "The

support from the Singapore Government has been amazing. Feedback was welcomed and even sought when new policies were rolled out to adapt to the new normal." At the same time, the Government introduced a Business Continuity Planning (BCP) guide with appropriate measures and arrangements for suppliers and customers.

"Singapore is a safe place to operate from during these times – there is political stability, and the Government has handled the [COVID-19] situation well. In fact, the protocols implemented in Singapore have been used in other countries," adds Gillet.

MALAYSIA – TECHNOLOGY POWERHOUSE



Any RDC considerations for Malaysia would have to take into account three key hubs: Kuala Lumpur, Johor and Penang. Kuala Lumpur International Airport is Malaysia's largest airport. Its relatively close proximity to Port Klang as well as its central location between Thailand and Singapore, offers multi-modal transportation (air-land and sea-land) options.

Johor, meanwhile, is the Malaysian state closest in proximity to Singapore and offers synergies with this location. RDCs operating in Johor can tap on Malaysia's lower land and labour cost while serving the Singapore market. There are also active efforts to promote sustained economic cooperation between Johor and Singapore.

Penang's attractiveness lies in the strong base of technology or electronics manufacturing activities based there.

"Penang is well-known for electronics manufacturing and there are further opportunities in the areas of healthcare and technology."

Jerome Gillet

"Penang is well-known for electronics manufacturing and there are further opportunities in the areas of healthcare and technology," says Gillet.

This is evident in the state's ability to attract the third highest manufacturing FDI inflow in Malaysia – contributing 50 per cent of the country's key investments

in electronics and electrical, machinery and equipment, scientific and measuring equipment industries.

The credit lies in Penang's network of over 3,000 diversified and competent local suppliers covering automation, electronics, packaging, plastics, precision engineering and metal work, software development and more.

Technology and healthcare companies continue to flock to the island-state because of its supportive investment ecosystem via [InvestPenang](#) and the [Penang Development Corporation](#). For example, US semiconductor manufacturer, LAM research, has pledged up to MYR1 billion in February 2020 despite the COVID-19 pandemic.

A key effort that would boost Malaysia's role as a RDC is the development of digital free trade zones (DFTZs) to capitalise on the growth of the internet economy and cross-border e-commerce activities.

One of the components of the DFTZ is the development of an eServices Platform to efficiently manage cargo clearance and other processes needed for cross-border trade. The intent is to enhance Malaysia's attractiveness as the regional fulfilment hub for global brands to reach ASEAN buyers.

GUEST ARTICLE FROM UOB ASEAN INSIGHTS

"MALAYSIA, SINGAPORE, THAILAND: WHAT TO CONSIDER WHEN SETTING UP A DISTRIBUTION CENTRE" (Cont'd)

THAILAND – (AUTOMOTIVE) ELECTRIC DREAMS

Going up north, Thailand and Bangkok's strategic location in the heart of the Mekong region helps manufacturers in Indochina connect with the South China region.

To further strengthen its infrastructure developments as a manufacturing and logistics hub, Thailand launched the Eastern Economic Corridor (EEC) that will turn three of Thailand's provinces (covering a total of 13,285 square kilometres) into a manufacturing hub reachable by land, sea and air. The EEC will provide connectivity

to Cambodia, Myanmar and Vietnam – Southeast Asia's next growth markets.

Logistics and supply chain company, CEVA Logistics, has since set up a new branch in Laem Chabang – an area known for its major deep seaport, transit cargo terminal and future home to Thailand's third airport.

Furthermore, Thailand has long been a key automobile production hub and can tap on its strength in this area to serve as an RDC for the automotive sector for the region.

"Thailand has highly qualified resources in automotive manufacturing. The move towards electric vehicles will also contribute to future growth," says Gillet.

Thailand targets to have electric vehicles account for 30 per cent of car production by 2030 to tackle toxic air pollution and also boost its capabilities in electric vehicle manufacturing. The Thai Government has introduced incentives such as a three-year tax holiday for manufacturers of plug-in hybrid vehicles and an eight-year corporate income tax waiver for battery electric vehicle makers. As activities in this space pick up, its role as an RDC for this new emerging sector would likewise increase.



Thailand's Eastern Economic Corridor will provide connectivity to Cambodia, Myanmar and Vietnam – Southeast Asia's next growth markets.

As seen above, Singapore, Malaysia and Thailand offer various advantages for businesses looking to tap into ASEAN's growth and rising middle class. Ultimately, choosing an RDC location depends on where key customers are located, the preferred transportation modes, as well as sensitivity to cost.

The continued growth of manufacturing activities in ASEAN, bolstered by the rollout of the Regional Cooperation Economic Partnership (RCEP), will contribute to the rise of RDCs across ASEAN. This in turn will boost the robustness and diversity of supply chains and minimise future disruptions.

Through our established network across ASEAN and linkages to Greater China, UOB is well positioned to connect our customers from around the world to the region's diversified markets. Our unique combination of in-market presence, local insights and expertise, coupled with the partner ecosystems we forge, enable us to help businesses and consumers seize opportunities for sustainable growth.



Source: UOB ASEAN Insights, 26 April 2021

This article "["Malaysia, Singapore, Thailand: What to consider when setting up a distribution centre"](#)" was first published on UOB ASEAN Insights. Reproduced with permission from UOB.

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NEWS

CAMBODIA:

NEW PRAKAS ON VALUE ADDED TAX ("VAT") FOR E-COMMERCE

On 8 September 2021, Prakas 542 MEF.P on Rules and Procedures for the Implementation of VAT on E-Commerce ("Prakas 542") was passed by the Government of Cambodia which provides additional details on Sub-decree No.65 S.E on the Implementation of VAT on E-Commerce.

Under Prakas 542, non-resident entities who provide digital goods and services or e-commerce activities ("Non-resident E-Supplier") to Cambodian consumers (both individual and business) who expect to have either annual turnover of KHR 250 million (USD 62,500) or an expected turnover within any three consecutive months in the year 2021 of KHR 60 million (USD 15,000) are required to register for VAT within 30 days with the General Department of Taxation ("GDT").

Prakas 542 also clarifies the process and documentation required for registration for VAT for those Non-resident E-Suppliers who meet the abovementioned threshold, e.g. VAT registration application, non-resident taxpayer registration documents and identification of owner or representative. The registration fee is KHR 400,000 (USD 100) and the fee for any subsequent update of information is KHR 200,000 (USD 50).

Where a Non-resident E-Supplier who meets the threshold fails to register for VAT, the GDT can unilaterally register the Non-resident E-Supplier and issue a tax re-

assessment of the VAT that has not been paid along with penalties and interest. A Non-resident E-Supplier who fails to register for VAT will be liable for a penalty from KHR 5 million (USD 1,250) to KHR 10 million (USD 2,500) or imprisonment for a period from one month to one year or both.

Under Prakas 542, a VAT registered Non-resident E-Supplier is required to issue tax invoices for each transaction it makes to consumers in Cambodia. Tax invoices issued must include the following:

- Name, address and VAT registration number of the Non-resident E-Supplier;
- Name and address of the customer, while for a B2B transaction their VAT registration number;
- Invoice number and date of issuance;
- Description of good/service; and
- Taxable value and VAT (for B2B transaction) or total value of the supply inclusive of VAT (for B2C transaction).

Prakas 542 also requires that in a B2B transaction, the Non-resident E-Supplier would need to show the VAT charged as

separate line item in the invoice and declare the VAT in its monthly VAT declaration. However, the obligation to pay the VAT rests with the taxable person under the VAT reverse charge mechanism.

Under Prakas 542, a taxable person would need to undertake the following:

- Determine whether or not the transaction is a digital goods, service or e-commerce activity when dealing with a Non-resident E-Supplier not registered for VAT.
- Be aware they will be responsible for paying the 10% VAT to the GDT on behalf of the VAT registered Non-resident E-Supplier under the reverse charge mechanism.

There is currently uncertainty on the method of declaring and paying the VAT reverse charge. A bank receipt may be provided as evidence for the payment of the VAT reverse but there is no provision in the Prakas 542 to the VAT reverse charge details in the monthly VAT declaration by the Non-resident E-Supplier.

NEWS

CAMBODIA:

COMPETITION LAW ENACTED

On 5 October 2021, the Government of Cambodia had issued the Competition Law ("the Law"). The scope of the Law governs activities that prevent, restrict or distort competition ("Requisite Anti-Competitive") and applies to all 'Persons' conducting business activities or any supporting activities which have Requisite Anti-Competitive effect in a Cambodian market. The Law clearly applies to business occurring outside of Cambodia that affects competition in Cambodia.

Under the Law, the following agreements between Persons that operate or are likely to operate at the same level in production or distribution chain ("Horizontal Agreements") where they directly or indirectly affect competition are prohibited:

- a) Fixing, controlling or maintaining the price of goods or services;
- b) Preventing, restricting or limiting:
 - i) The quantity of goods or services which are made available for sale;
 - ii) The type of goods or services which are made available for sale; or
 - iii) The development of new goods or services;
- c) Allocating geographic areas between competitors;
- d) Allocating customers between competitors; or
- e) Favouring one bidder in bids for a contract in private procurement.

In addition, the Law also prohibits agreements between Persons who operate, or are likely to operate, at different levels in the production or distribution chain ("Vertical Agreements") that directly or indirectly impose minimum resale price obligations. However, the following Vertical Agreements are prohibited only if they have or could have the Requisite Anti-Competitive object or effect:

- a) Requiring a purchaser to resell purchased goods or services only within a defined geographic area;
- b) Requiring a purchaser to resell purchased goods or services only to specified customers or specified categories of customers;
- c) Requiring a purchaser to purchase all or nearly all of its requirements for particular goods or services exclusively from the seller;
- d) Preventing a seller from selling goods or services to another purchaser; or



- e) Requiring a purchaser to purchase unrelated goods or services in addition to the goods and services that the purchaser wants to purchase.

Under the Law, where a Person has the power to act without any effective constraint from other competitors, such Person is prohibited from the following specified conduct that has the Requisite Anti-Competitive object or effect:

- a) Requiring or inducing a supplier or customer not to deal with a competitor;
- b) Refusing to supply goods or services to a competitor;
- c) Selling goods or services on the condition that the purchaser needs to purchase other goods or services separately, which are unrelated to the object of the contract;
- d) Selling goods or services below the cost of production; or
- e) Refusing to give a competitor access to an essential facility.

Under the Law, exemptions may be provided for prohibited anti-competitive conducts or agreements if the following conditions are satisfied:

- a) There are significant identifiable technological, economic or social benefits;
- b) Such benefits would not exist without those agreements or activities;
- c) Those benefits significantly outweigh any determined Requisite Anti-Competitive effect; and
- d) The conduct or agreement does not eliminate competition in any important aspect of goods or services.

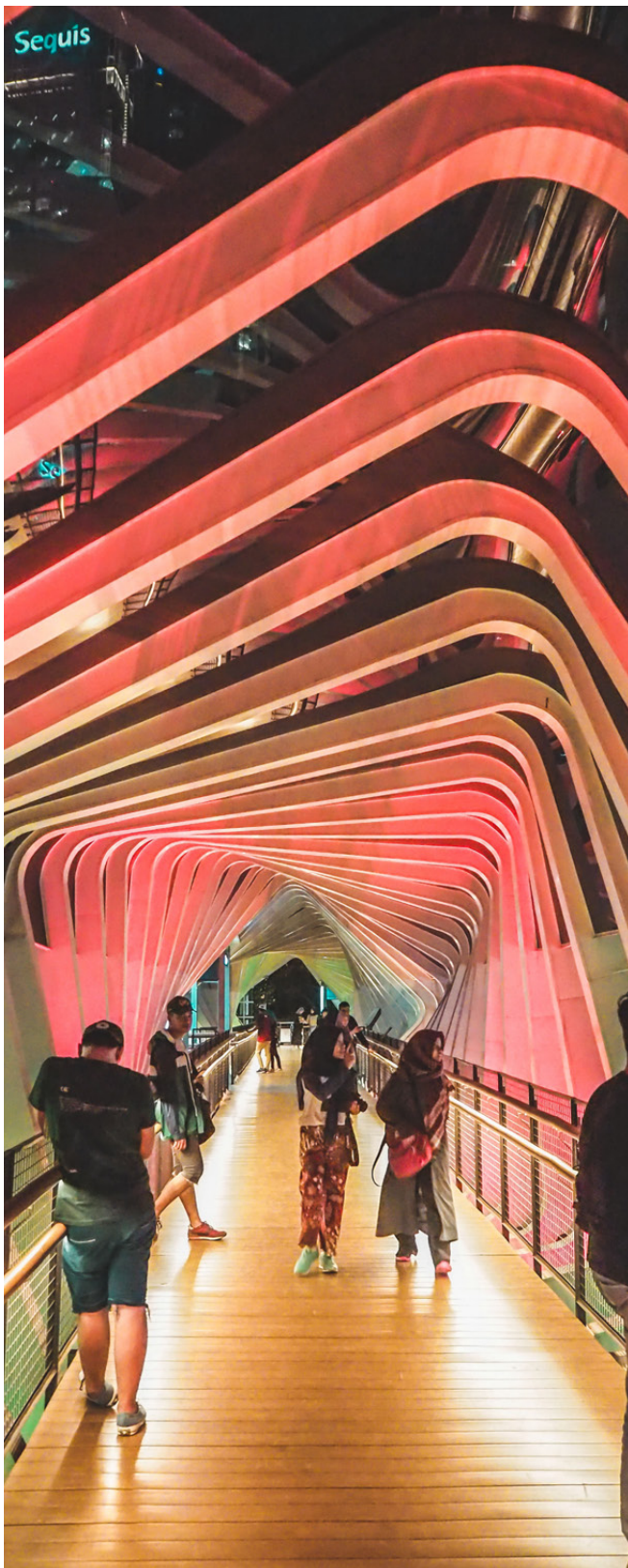
Under the Law, Persons who violate prohibitions on anti-competitive Vertical Agreements, abuse of dominance or competitive business combinations is liable to written warning and a fine of 3% to 10% of total turnover in the year of the infringement up to 3 years.

In addition, a person violating the prohibition on anti-competitive Horizontal Agreements is liable to imprisonment from 1 month to 2 years, and a fine from KHR 5,000,000 to KHR 100,000,000 (USD 1,220 to USD 24,500), while a company will be subject to a fine from KHR 100,000,000 to KHR 2,000,000,000 (USD 24,500 to USD 489,000).

NEWS

INDONESIA

SUMMARY OF TAX HARMONISATION BILL



In the spirit of tax reforms to increase sustainable economic growth, to support the acceleration of recovery through increase in tax ratio, to provide legal certainty and to increase tax awareness through voluntary disclosure, the Indonesian Parliament has recently approved the Tax Harmonisation bill to be gazetted within 30 days from Parliament's approval on 7 October 2021.

The Tax Harmonisation bill covers the policies as follows:

A. General Tax Provisions

Cooperation in tax collection assistance and avoidance of base erosion and profit shifting ("BEPS")

By virtue of the Tax Harmonisation Bill, the Indonesian Government is now authorised to enforce bilateral and multilateral agreements with governments or organisations of partner countries or jurisdictions on the avoidance of double taxation and/or tax evasion, prevention of the tax base erosion and profits shifting, exchange of tax and financial information, assistance in tax collection and any other tax cooperations.

B. Income tax

1. Individual Income Tax Rate

Starting from Fiscal Year (FY) 2022, income received by individual taxpayers will be subject to tax at the following rates:

Taxable Income	Tax Rate
Up to Rp60,000,000	5%
Over Rp60,000,000 but not exceeding Rp250,000,000	15%
Over Rp250,000,000 but not exceeding Rp500,000,000	25%
Over Rp500,000,000 but not exceeding Rp5,000,000,000	30%
Over Rp5,000,000,000	35%

2. Corporate Income Tax Rate

Indonesian corporate taxpayers and Permanent Establishments will be subject to Corporate Income Tax rate of 22% for FY 2022 onwards.

C. Value Added Tax ("VAT")

VAT rate will be increased from 10% to 11% and 12% with the following timeline:

- 11% starting from April 1st, 2022; and
- 12% will come into effect no later than January 1st, 2025.

NEWS

INDONESIA

SUMMARY OF TAX HARMONISATION BILL (Cont'd)

D. Tax Amnesty ("TA")

The Government will provide an opportunity for individuals and corporate taxpayers to disclose any under-reported or undeclared assets on a self-assessment basis by participating in a tax amnesty program and settling the tax amnesty levy as below.

Details	Assets from 1985 - 2015	Assets from 2016 - 2020
Target	Indonesian taxpayers in general	Individual taxpayers only
Type of Assets	Any unreported assets acquired by the Taxpayer from Jan 1 st , 1985 to Dec 31 st , 2015.	Any unreported assets acquired by the Taxpayer from Jan 1 st , 2016 to Dec 31 st , 2020.
Tariff	<ul style="list-style-type: none"> 6% for declared assets in Indonesia and repatriated assets if invested in: <ol style="list-style-type: none"> Natural resources processing activity, renewable energy in Indonesia and/or Government securities. 8% for declared assets in Indonesia and repatriated assets if not invested in point 1 or 2 above. 11% for offshore assets not repatriated to Indonesia. 	<ul style="list-style-type: none"> 12% for declared assets in Indonesia and repatriated assets if invested in: <ol style="list-style-type: none"> Natural resources processing activity, renewable energy in Indonesia and/or Government securities. 14% for declared assets in Indonesia and repatriated assets if not invested in point 1 or 2 above. 18% for offshore assets not repatriated to Indonesia.

E. Carbon Tax

Carbon tax will be imposed on carbon emissions which have negative impact on the environment, either by individuals or entities, and will be due upon purchase of goods containing carbon, at the end of a calendar year for activities producing certain amount of carbon emissions or at other specific periods that will be further regulated by the Government.



NEWS

MYANMAR

UNION TAX LAW 2021



THE UNION TAX LAW 2021 ("UTL") AND KEY CHANGES

The Union Tax Law 2021 (UTL) was announced by the Myanmar's Union Parliament on 30 September 2021 and it was effective from 1 October 2021.

The UTL 2021 introduced the significant changes as follows:

INCOME TAX ("IT")

Under the UTL 2021, the income tax shall be levied at 22% of the total net profit before deducting the reliefs under Section 6 of the Income Tax Law in respect of the following types of taxpayers:

- A company that is registered and established in Myanmar under the Myanmar Companies Act or the Special Companies Act 1950
- Other income (except for the salary item) of the non-resident foreigners
- A business that operates with the permissions issued by the Myanmar Investment Commission
- State-owned economic organisations

The income tax shall be levied at 22% of the remaining income after deducting reliefs under Section 6 of the Income Tax Law from the net profit of cooperative societies except the basic cooperative society.

Personal Income Tax ("PIT")

Personal income tax range to be levied will be changed as below,

No	From (MMK)	Up (MMK)	Rate
1	1	2,000,000	0%
2	2,000,001	10,000,000	5%
3	10,000,001	30,000,000	10%
4	30,000,001	50,000,000	15%
5	50,000,001	70,000,000	20%
6	70,000,001 and above		25%

COMMERCIAL TAX ("CT")

Commercial tax rate for Hotel and Tourism companies will be reduced to 3%.

No commercial tax will be charged on the creamer (a cream or milk substitute to be added to coffee or tea).

NEWS

MYANMAR

UNION TAX LAW 2021 (Cont'd)

SPECIFIC GOODS TAX ("SGT")

Electric motors are exempt from SGT.

The specific tax rates for cigarettes, alcohol, and beer and wine will be increased. The detailed list and rate for each type of goods are described in table below:

Sr: No	Description of Goods	Price Level	Tax Rate
1	(a) Various types of cigarette	up to sale price of 700 kyats for a pack of 20 cigarette	10 kyats per cigarette
	(b) Various types of cigarette	Between the sale price of 701-900 kyats for a pack of 20 cigarette	19 kyats per cigarette
	(c) Various types of cigarette	Between the sale price of 901-1100 kyats for a pack of 20 cigarette	24 kyats per cigarette
	(d) Various types of cigarette	the sale price of 1101 kyats and above for a pack of 20 cigarette	27 kyats per cigarette
2	Cheroot		1 kyat per cheroot
3	(a) Various types of liquor	Between 200-1200 kyats per litre	190 kyats per litre
	(b) Various types of liquor	Between 1201-2300 kyats per litre	500 kyats per litre
	(c) Various types of liquor	Between 2301-3400 kyats per litre	855 kyats per litre
	(d) Various types of liquor	Between 3401-4600 kyats per litre	1200 kyats per litre
	(e) Various types of liquor	Between 4601-5800 kyats per litre	1560 kyats per litre
	(f) Various types of liquor	Between 5801-7000 kyats per litre	1920 kyats per litre
	(g) Various types of liquor	Between 7001-8200 kyats per litre	2280 kyats per litre
	(h) Various types of liquor	Between 9401-10600 kyats per litre	3000 kyats per litre
	(i) Various types of liquor	Between 10601-11800 kyats per litre	3360 kyats per litre
	(j) Various types of liquor	Between 11801-13000 kyats per litre	3720 kyats per litre
	(k) Various types of wine	Between 13601-16600 kyats per litre	3724 kyats per litre
	(l) Various types of wine	16601 kyats and above per litre	50 % of the price of a litre

GEMSTONE TAX

There are no changes for gemstones tax rates. The gemstone tax rates ranging from 5% to 11% (depending on the type of gemstone) remain the same.

CHANGE OF FINANCIAL YEAR

The Ministry of Planning, Finance, and Industry has issued the Announcement on the change of Financial Year to all taxpayers on 30 September 2021 and the summary of the announcement is as follows:

The financial year will be changed from April 1 to March 31, starting from 2022-2023 financial year onwards. In addition, the six-month period from October 2021 to March 2022 is specified as an interim

budget period. This will mark a change from the current practice in Myanmar, under which the financial year has run from October 1 to September 30. Hence, all taxpayers will need to adjust the financial practices and tax compliances practices to comply with the new timeline laid out in this announcement.

COMPULSORY USAGE OF E-FILING SYSTEM

The Ministry of Planning, Finance, and Industry has introduced an electronic filing ("e-filing") system to file tax returns which will be effective from 1 December 2021 and the summary of the announcement is as follows:

As part of the implementation of Myanmar's Integrated Tax Administration System, the Internal Revenue Department ("IRD") recently introduced an electronic filing ("e-filing") system and has expanded the scope of electronic payment ("e-payment") platforms in order for taxpayers to easily file returns and pay taxes.

With effect from 1 December 2021, large taxpayer offices and all medium taxpayer offices will only accept the e-filing of quarterly and annual tax returns. Thus, all taxpayers have to practise e-filing of tax returns starting from 1 December 2021.

NEWS

SINGAPORE

UPDATES TO SINGAPORE - INDONESIA DOUBLE TAXATION AGREEMENT

On 4 February 2020, Singapore and Indonesia signed the updated Double Taxation Agreement ("DTA"), which entered into force on 23 July 2021.



Key updates include:

- Withholding tax rate for royalties is lowered from 15% to 10% for the use of, or the right to use, any copyright of literary, artistic, or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process and from 15% to 8% for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
- Article 13 on Capital Gains has been introduced in the updated Agreement to allocate the taxing rights between both countries. Amongst other things, it gives tax rights to the source country for gains from disposal of (a) immovable properties situated in the source country, and (b) non-listed shares in companies whose value are principally derived (directly or indirectly) from immovable properties situated in the source country, if the seller owns at least 50% of the shares in the company. Tax exemption may be available for other capital gains derived from the source country.
- Article 26 on Exchange of Information has been amended in the updated DTA to be in line with the internationally agreed standard on exchange of information upon request.
- Article 28 on Entitlement to Benefits has been updated to include the Principal Purpose Test ("PPT") provision to counter treaty abuse. The PPT allows either country to deny treaty benefits if it is reasonable to conclude that one of the main purposes was to obtain benefits of the Agreement in an improper and abusive manner.

The updated DTA with Article 13 would provide certainty to investors while planning their investments in both countries. Singapore has been an attractive location to set up holding company for investment in the region, most notably due to the tax exemption on certain foreign sourced income (such as dividend), no capital gains tax, strong tax treaty network amongst other favourable non-tax factors. Such attractiveness is further enhanced by the certainty conferred by Article 13 of the DTA. Whilst trade and investment in both Singapore and Indonesia would benefit from the updated DTA, global investors planning their investments into Indonesia would also have more compelling reasons to route their regional investments through Singapore.

NEWS

THAILAND

INVESTMENT AND TAX UPDATES



INVESTMENT

The Thailand Board of Investment ("BOI") reported 1,274 project applications filed from January to September 2021. The total investment during this period amounted to THB 521 billion, a 140% increase for the same period last year. There were two sectors that reported the highest investments – healthcare with 4 times more investment as compared to last year, and 'electrical and electronics' sector with more than THB 77 billion investment. Other key sectors included petrochemicals and chemicals, agriculture and food and biotech.

A significant increase in investment was seen in the Eastern Economic Corridor. The BOI also approved incentive packages to accelerate Thailand Industry 4.0 transformation. The new investment incentives are primarily focused on productivity enhancement and automation projects that require higher investments. The approved measures include a 3-year corporate income tax holiday covering 100% of the investment in the Industry 4.0 upgrade. Applications must be filed within the year of 2022 and the projects must be implemented within 3 years from the date of approval.

TAX

Transfer pricing

The Thailand Revenue Department has issued the remaining regulations on transfer pricing. This includes the regulation on Country-by-Country Report ("CbCR") under which companies with a consolidated group revenue of more than THB 28 billion are required to submit CbCR along with their annual income tax returns. CbCR must be reported for financial year starting on or after 1 January 2021. Furthermore, a regulation has been issued confirming that the transfer pricing documentation must be prepared in Thai language. While the threshold for submitting disclosure form remains unchanged, companies meeting the following conditions are not required to undertake benchmarking analysis on a yearly basis:

- Revenue of not exceeding THB 500 million during the accounting period;
- No transaction with a related party that is subject to a different corporate income tax rate;
- No transaction with an offshore related party; and
- The related parties entering into a transaction do not have tax losses (brought forward or current) that can be utilised as a tax expense for CIT purposes in the accounting period.

Stamp duty

The Thailand Revenue Department has added to the list of agreements and instruments that are prepared in an electronic format and shall be subject to electronic stamp duty. The electronic instruments include:

- hire of work agreement
- loan agreements
- power of attorney
- proxy forms for company meetings
- lease agreements
- share certificates
- warehouse receipts, etc.

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