



Tax & Legal News Flash

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Thailand - Revision of Work Permit Law

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On the 24th of March 2018, the Thai cabinet approved the Emergency Decree on Managing the Work of Aliens B.E. 2561 (No.2) (the “**Amended Decree**”).

WHY THIS MATTERS

The revision in the Emergency Decree on Managing the Work of Aliens B.E. 2560 (the “**Decree**”) is to facilitate better control on the process of bringing foreign workers into Thailand, and further promote cooperation with related sectors in the management of working of aliens and to revise penalty to be reasonable.

Key revisions are:

1. Broadening activities for exemption from work permit requirements
2. Revision in the definition of work
3. Extension period for urgent work permit
4. No longer require to register multiple working locations
5. Registration deadline
6. Reduction penalties

Activities exemption list

Originally, the Decree provides that foreigners who enter Thailand occasionally for the purpose of attending meeting shall not be required to apply for work permits. The Amended Decree broaden that list of activities to be exempt from work permit to include:

- organize or attend a meeting, conference; expression of opinion, a lecture, or present at a meeting, training, workshop, or seminar; to perform art and cultural activities; or to participate in sports competition or any activities to be prescribed by the Council of Ministers;
- establishing a business or investment, or who possess knowledge, ability or a high level of skill (“high level of skills”), which will be beneficial to Thailand’s development, as prescribed by the Council of Ministers; and

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- representative of a foreign juristic person licensed to operate business under the foreign business law.

Revision on “Work” definition

The Decree, originally, defined work to be *“the use of physical strength or knowledge to engage in a profession or to perform work with or without an aim to obtain wages or any other benefits.”* Work has been revised under the Amended Decree to be *“an engagement of any profession, with or without employer, but excluding business operation of a licensee under the foreign business law.”*

Extension period for urgent work permit

The Decree provides that foreigner who engages in “necessity and urgent work” within a period of fifteen days may engage in such work only after submitting a notification by the sponsoring company to the Registrar. In the past should the necessity and urgent work exceed fifteen days, work permit is required for the individual to continue to provide the support in the necessary and urgent work.

Under the Amended Decree, in the case where necessity and urgent work cannot be completed within fifteen days by the foreigner, the sponsoring company may request for an extension for another fifteen days by notifying the Department of Labor before the lapse of initial fifteen days, thus, a foreign employee can work to a maximum of 30 days consecutively at one time for necessity and urgent work.

Multiple working location registration

In the past, foreign individuals can only work in Thailand for specific job, specific location, and in specific capacity as stated in their work permits. With the repealed of such provisions under the Amended Decree foreign employees are no longer required to register in their work permits all the locations that they work or are require to work for their employers at multiple locations, providing that their employers registered all the locations where they operate with the Department of Business Development (a department within the Ministry of Commerce) and it is included in the company’s affidavit / company’s registration certificate.

Registration deadline

Employers or sponsoring companies in Thailand are required under the Amended Decree to notify the Department of Labor the nationality and work descriptions of their foreign employees within fifteen days from the date of employment, as well as to notify within fifteen days from the date of resignation / termination / completion of employment. This requirement also apply to foreign employees to ensure that their employers or sponsoring company in Thailand to notify of their employments. A fine not exceeding THB 20,000 would apply to each non-compliance’s employer and employee.

Reduction in penalties

Fine and penalties have been reduced depending on the non-compliance as followed:

- Foreign employees who work without a work permit, formerly will be subject to imprisonment for up to 5 years, a fine range from THB 2,000 to THB 100,000 and/or both. Under the Amended Decree, a

monetary fine is reduced to a range from THB 5,000 to THB 50,000. There is no longer imprisonment.

- Employers who hire foreigner to work without a work permit or carrying work outside of the permitted scope, is subject to a reduced monetary fine to a range THB 10,000 to THB 100,000 per foreign employee (formerly from THB 400,000 to THB 800,000).
- Employers who repeated the same offense may be subject to an imprisonment term of up to 1 year, a fine range from THB 50,000 to THB 200,000 per foreign employee, and/or both. In addition, the employer will also be prohibited from hiring foreign workers for 3 years from the date of the final court judgment.
- Foreign employees who work on a necessity and urgent work without notifying the Registrar, formerly will be liable to a fine range from THB 20,000 to THB 100,000, which has been adjust to a maximum of THB 50,000 under the Amended Decree.

KPMG NOTE

In broaden the list of work permit exemption activities, representative office managers at representative offices and branch manager are no longer require work permit to work in Thailand. The revision to the Decree loosen restrictions, reducing administrative burden on work permit requirements and reducing penalty for non-compliance. However, there is still in need of further clarification on “high level of skills” under the exemption activities list. We will keep informed of any new updates on this matter.

See: <http://www.ratchakitcha.soc.go.th/DATA/PDF//2561A/.29/019PDF>

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