

# ASEAN INVESTMENT & TAX NEWS

## FEATURE ARTICLE

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## NEWS

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# FOREWORD

**Greetings and welcome to the 3rd edition of 2019's ASEAN Investment and Tax News (AITN). As we move past the midway point of 2019, ASEAN continues to strive under a waxing and waning trade war between the US and China.**

Despite this charged backdrop, five ASEAN countries – Singapore, Thailand, Vietnam, Laos and Myanmar have continued to further ASEAN's economic interests. The five nations have agreed to new free-trade deals with Hong Kong. The bilateral investment agreements will come into force on June 17. Similar agreements with Brunei, Cambodia, Indonesia, the Philippines and Malaysia will be announced later on.

Further, I'm pleased to read that Vietnam's economy is expected to grow around 6.7% in 2019, the fastest among Southeast Asian nations. Its' economy grew at 6.8 % year-on- year in the first quarter driven by robust manufacturing exports, developing services and rising agricultural output.

On a lighter note, the Prime Minister of Thailand, Prayuth Chan-ocha has said that Southeast Asian countries will jointly bid to host the football World Cup in 2034. Malaysian Prime Minister Tun Dr Mahathir Mohamed welcomed the joint bid. He added, "Maybe (with) all ASEAN together, we will be able to hold the World Cup."

With another exciting quarter in the ASEAN, our tax experts continue to analyse and bring the latest comprehensive updates and reforms from around the region.

Our feature article focuses on a bevy of updates in Myanmar's tax scene, including the removal of the 2% advance income tax exemption on export, change of the tax assessment year in the country and the new 5% commercial tax on mobile handsets. We also discuss the nation's recent authorisation for foreign insurance companies to operate in Myanmar and extend insurance services to Myanmar citizens.

In Singapore, we take an in-depth look at the key changes to the country's Employment Act (EA). For employers or business owners in Singapore, this article is key to understand what the changes are and how they will affect you and your employees.

Over in Cambodia, our colleagues focuses on the Registration of Foreigner Employment Contract. The notification is aimed at facilitating the employment of foreign nationals, and Cambodian employers are required to re-register their current foreigner employer contracts.

Meanwhile, our Thai colleagues share the new property tax legislation has finally entered into law. The new law replaces the current House and Land Tax Act and the Local Development Tax Act, which aims to encourage the productive use of land and improve tax collections in the nation.

Finally, in Indonesia, our team talk about the nation's recently extended list of export services that will fall under the 0% Value Added Tax (VAT). The updated list was designed to spur economic growth in the nation.

We trust the updates shared here will give you insights into key developments on tax and investment, in and around the region. Please contact us if you would like to have more information or comprehensive advice on any of the news or articles presented in this publication.

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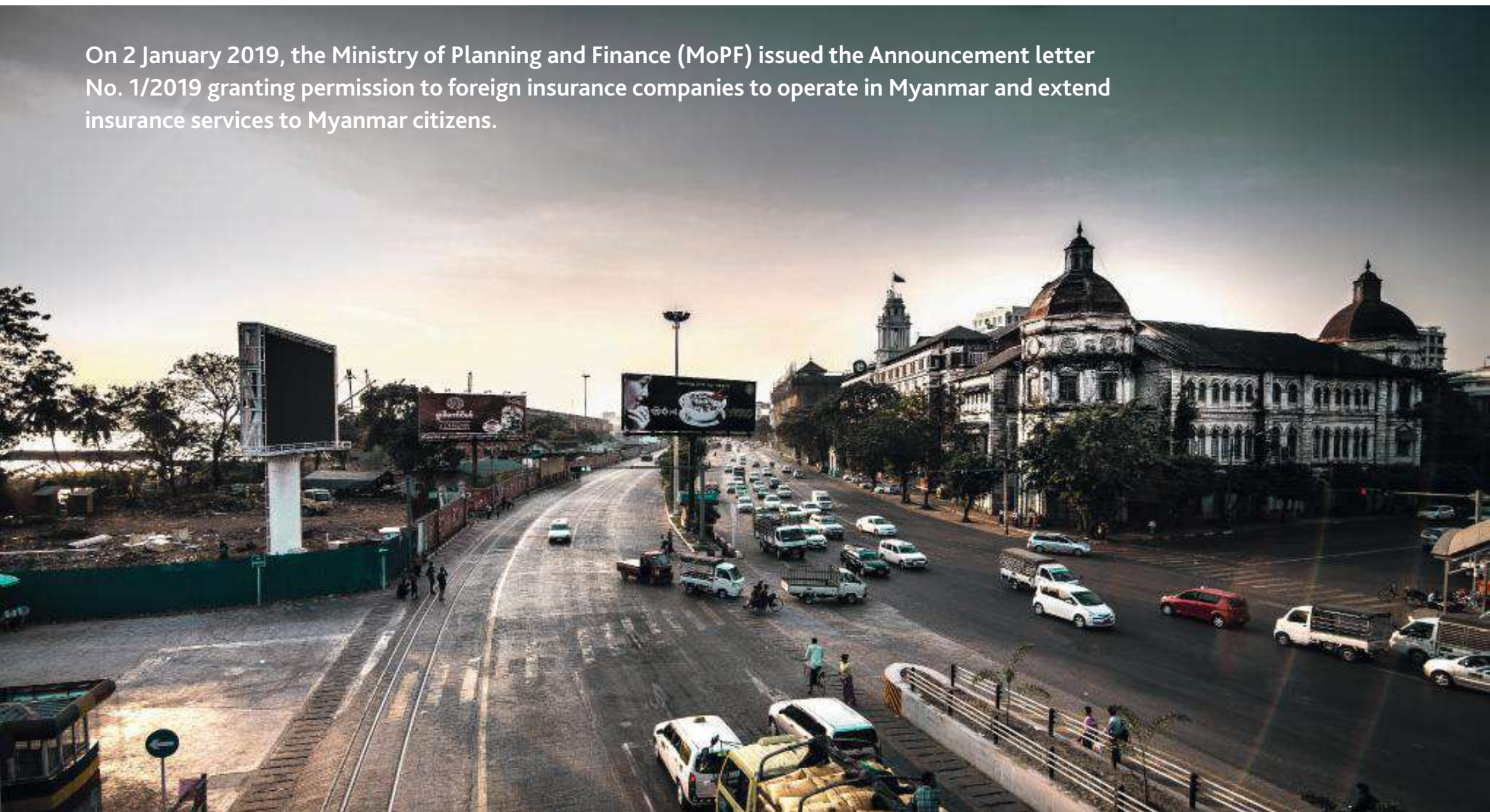


# FEATURE: MYANMAR

## MYANMAR:

## INSURANCE MARKET LIBERALISATION FOR FOREIGN ENTITIES IN MYANMAR

On 2 January 2019, the Ministry of Planning and Finance (MoPF) issued the Announcement letter No. 1/2019 granting permission to foreign insurance companies to operate in Myanmar and extend insurance services to Myanmar citizens.



Since 2013, 11 local insurers have been granted licenses to operate, while 14 foreign insurers have set up 30 representative offices. But none have been allowed to conduct business except in Thilawa, whereby three Japanese companies were granted permission to operate non-life insurance businesses in the special economic zone - Tokio Marine & Nichido Fire Insurance, Sompo Japan Insurance and Mitsui Sumitomo Insurance.

This announcement permits foreign life and non-life insurers to form joint ventures with local life and non-life insurers respectively. In addition, up to 3 (three) licenses will be granted to foreign life insurers to operate as wholly-owned subsidiaries. Therefore, foreign insurers will now be able to play a much more active role in the insurance sector.

**On 5 April 2019, the MoPF published the list of foreign insurers as "preferred applicants" to operate as a life insurance company through a 100pc wholly-owned subsidiary. The list of selected applicants included:**

- AIA Company Limited
- Chubb Tempest Reinsurance Limited
- Dai-ichi Life Insurance Company, Limited
- Manufacturers Life Insurance Company
- Prudential Hong Kong Limited

The selected applicants would now be required to comply with the pre-licensing conditions in which indicative conditions included, among other things, formation and registration of the subsidiary in Myanmar, approval of auditors and capital contributions.

Applicants who have not been selected but would like to proceed with entering Myanmar insurance market (through a joint venture with a local insurer) would need to arrange for the submission of completed expressions of interest over the course of the next four weeks.



# NEWS

## MYANMAR:

### REMOVING 2% ADVANCE INCOME TAX EXEMPTION ON EXPORTS

On 8 April 2019, Ministry of Planning and Finance (MOPF) issued Notification 38/2019 that removing the 2% advance income tax exemption on exports previously granted to taxpayers under the Large Taxpayers Office (LTO) and Medium Taxpayers Office No. 1 (MTO 1) effective from 1 May 2019.

The 2% advance income tax was introduced in 2013 and was collected from the importer and exporter based on the assessed value of the goods being imported to and exported from Myanmar.

In January 2018, the MOPF through the issuance of Notification 7/2018, provided an exemption for

**“goods exported by taxpayers at the large or medium tax payers’ office who use the self-assessment system.”**

This was an acknowledgment by the Myanmar Government of the level of compliance and significant tax payments made by taxpayers under the LTO and MTO 1.

However, the MOPF noted that some traders engaging in border trade transactions are now exporting goods under the name of companies under the LTO and MTO 1, which it considers unfair to other traders not covered by the self-assessment system. Therefore, in order to maintain a level playing field, the MOPF issued Notification 38/2019 revoking the 2% advance income tax exemption on exports previously granted to taxpayers under the LTO and MTO 1.



As a result, starting from 1 May 2019, all taxpayers (unless otherwise covered by the exemptions) will be subject to the 2% advance income tax on importation and exportation of goods. Such advance income tax paid by the taxpayer upon importation and exportation is creditable against the taxpayer's corporate income tax liability at the end of the tax year.



# NEWS

## MYANMAR:

### CHANGE OF TAX ASSESSMENT YEAR IN CONJUNCTION WITH CHANGE IN FINANCIAL YEAR

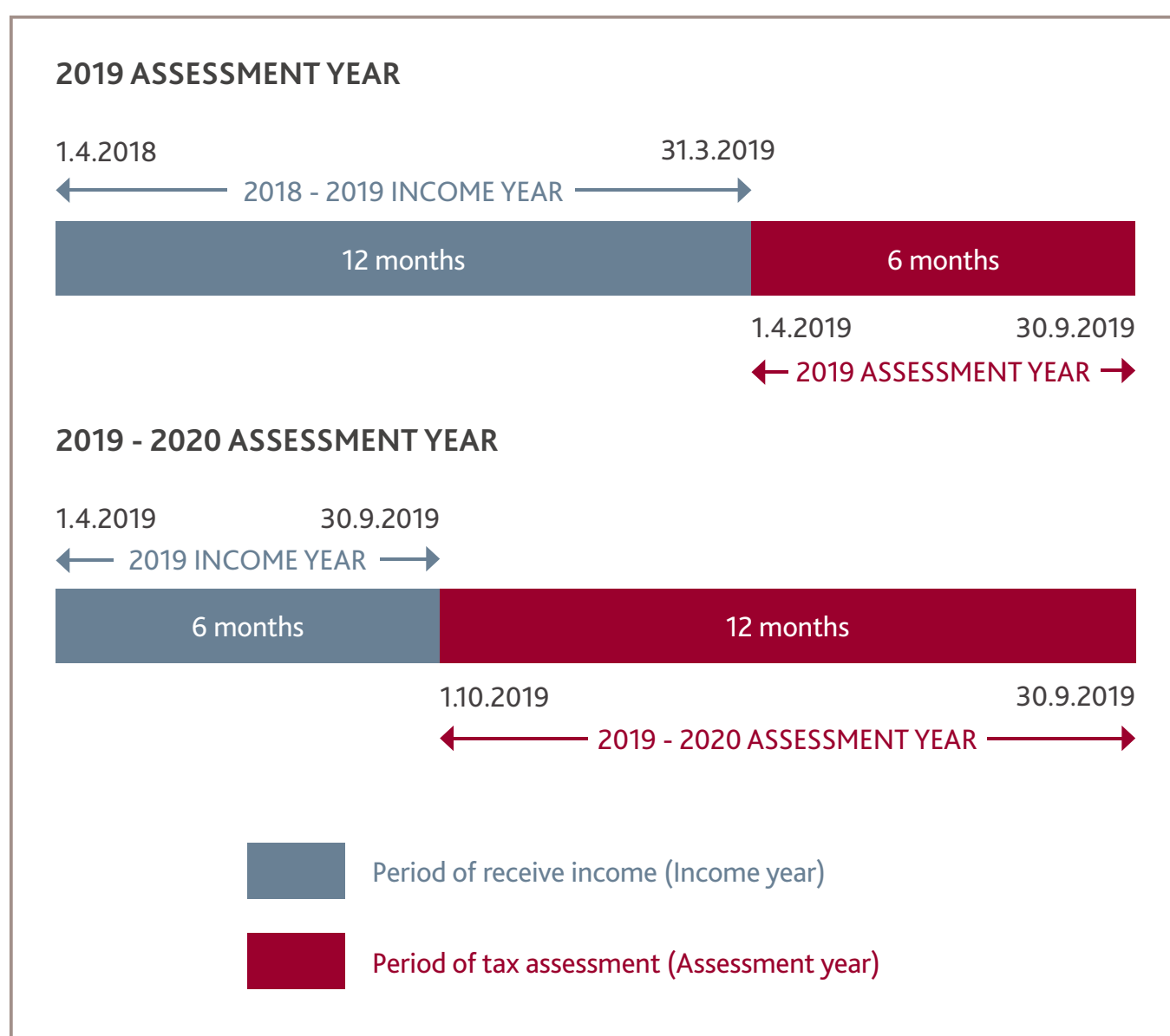
The Myanmar Internal Revenue Department (IRD) recently issued a Letter confirming changes to the tax year of reporting for cooperatives and private enterprises that will take effect from 1 October 2019.

This announcement brings the financial year into line with the State's new budget year as mentioned in the 2018-2019 Union Taxation Law. Previously, only state-owned enterprises and certain banks and financial institutions adopted this new financial year starting in October of last year.

Through this Letter, the IRD confirms that:

- There will be a six month period (transition period) from 1 April 2019 – 30 September 2019 (FY 2019); and
- A new financial year will commence starting 1 October 2019 to 30 September 2020 (FY 2019-2020).

However, the IRD Letter makes no mention of whether this change to the financial year also applies to individuals or to personal income tax, and further clarification will be needed in this regard.



Change of tax assessment year in conjunction with change in financial year

### 5% COMMERCIAL TAX ON MOBILE HANDSETS TO BE LEVIED

The Internal Revenue Department (IRD) announced on 1 April 2019 that consumers will have to pay a 5 percent commercial tax when buying mobile handsets and related accessories from 1 June 2019 onwards.

The taxes will be levied based on the total sales value of the purchase and collected by the vendor and consumers will receive a stamped voucher to indicate that commercial taxes have been paid on their merchandise.





# NEWS

## CAMBODIA:

### NOTIFICATION NO. 043/19 ON REGISTRATION OF FOREIGNER EMPLOYMENT CONTRACT



On 29 March 2019, the Ministry of Labour and Vocational Training Cambodia issued Notification No.043/019 on the Registration of Foreigner Employment Contract to facilitate the effective employment of foreign nationals in a responsible manner.

The notification provides that all foreigner employment contracts that need to be registered shall be made in writing and attached with a Khmer translation if the employment contract is made in a foreign language.

The foreigner employment contract, which can be a Fixed Duration Contract (FDC) or an Unspecified Duration Contract (UDC), shall be registered with the Department of Occupation and Workforce at Ministry of Labour and Vocational Training for enterprises/ establishments located in Phnom Penh and Municipal/Provincial Department of Labour and Vocational Training for enterprises/ establishments located and under the management of each municipal/provincial respectively.

Employers may use their own developed employment contract template to register provided that the employment contract shall not violate the provisions of the Labour Law or any other applicable regulations.

The employers are required to re-register the foreigner employment contract in accordance with the conditions of Prakas 196 dated 20 August 2014 on Employment of Foreign Nationals when the employment contract has reached its expiry date or when there is any modification to the contract.



# NEWS

## INDONESIA:

### EXTENDED LIST OF EXPORT SERVICES WITH 0% VALUE ADDED TAX

The Indonesian government plans to increase exports to encourage economic growth by expanding the list for imposition of 0% Value Added Tax (VAT) on export services. The policy is contained in the Minister of Finance (MoF) Regulation Number 32/PMK.010/2019 (PMK-32) which was released on March 29, 2019 concerning Limitation on Activities and Types of Taxable Services the Export of which is Subject to Value Added Tax.

PMK-32 revokes MoF Regulation Number 70/PMK.03/2010 (PMK-70) as amended by MoF Regulation Number 30/PMK.03/2011 (PMK-30).

Export of Taxable Services is any activity of delivering Taxable Services generated in Indonesia Customs Area to be used by Recipients of Export of Taxable Services outside the Customs Area.

PMK-32 provides an expanded list of export services which are subject to 0% VAT as follows:

- I Services related to movable goods issued for use outside of the Customs Area, which consists of:**
  - ① Toll manufacturing services;
  - ② Repair and maintenance services; and
  - ③ Freight forwarding services related to goods for export.
- II Services related to immovable goods issued for use outside of the Customs Area in the form of consultation services for construction.**
- III Services in which the results are utilised for use outside of the Customs Area through either:**
  - ① Direct or indirect transmission (i.e. via postal services or electronic channels); or
  - ② Provision of access outside of the Customs Area.

These "extended list of export services," which were not previously covered in PMK-30, are:

- a information and technology services;
- b research and development services;
- c rental of aircrafts and/or ships for international flights or shipping activities;
- d consultation services in the form of:
  - management and business services;
  - legal services;
  - interior and architectural design services;
  - human resource services;
  - engineering services;
  - marketing services;
  - accounting services;
  - financial audit services; and
  - tax services
- e "trading services" that find domestic sellers of goods for export purposes; and
- f inter-connections, satellite operations and/or communication/data connectivity services.

The 0% VAT imposition is provided for those who meet the requirements below:

- ① Written agreement between a local VAT-able Entrepreneur and an overseas service recipient that clearly states the type, details and value of services.
- ② Supported by valid proof of payment from the overseas service recipient to the local VAT-able Entrepreneur.

NEWS

SINGAPORE:

HOW THE SINGAPORE EMPLOYMENT ACT (EA) CHANGES IN 2019 AFFECT YOU

The Singapore Employment Act is Singapore's main employment law. It provides for the basic terms and working conditions for employees through core provisions and Part IV provisions that provide additional protection.



Updates to the Act took effect on 1 April 2019. As employers or business owners in Singapore, it is important to understand what the changes are and how they will affect you and your employees. Below are some noteworthy changes:

KEY CHANGES IN THE SINGAPORE EMPLOYMENT ACT (EA) 2019

I

EXTENSION OF CORE PROVISIONS OF THE EA TO PROTECT ALL EMPLOYEES

BEFORE	AFTER
Employment Act does not cover managers and executives (M&Es) earning above \$4,500 a month	The \$4,500/month salary cap on managers and executives (M&Es) will be removed

II

EXTENSION OF PART IV OF THE EA TO PROTECT MORE EMPLOYEES

Enhance the protection of working hours, payment for overtime work and rest days for non-workmen:

BEFORE	AFTER
Applicable to workmen earning a basic salary up to \$4,500/month	No change
Non-workmen earning a basic salary up to \$2,500 a month and overtime rate payable capped at \$2,250 a month	Non-workmen earning up to \$2,600 a month and overtime rate payable capped at \$2,600 a month

III

ENHANCEMENT OF THE EMPLOYMENT DISPUTE RESOLUTION FRAMEWORK

BEFORE	AFTER
Wrongful dismissal claims are heard by the MOM, whereas salary-related claims are heard at Tripartite Alliance for Dispute Management/ Employment Claims Tribunals(ECT)	Wrongful dismissal claims and salary-related claims will be heard at the Tripartite Alliance for Dispute Management/ Employment Claims Tribunals (ECT)
M&Es can seek help if they have served the employers for at least a year	M&Es can seek help if they have served the employer for at least six months



# NEWS

## SINGAPORE:

### HOW THE SINGAPORE EMPLOYMENT ACT (EA) CHANGES IN 2019 AFFECT YOU (Con't)

#### KEY CHANGES IN THE SINGAPORE EMPLOYMENT ACT (EA) 2019

##### IV ADOPT LESS PRESCRIPTIVE APPROACH FOR AUTHORISED DEDUCTIONS

BEFORE	AFTER
Employers can make salary deductions only for specific reasons under the EA.	Employers can also make salary deductions if they: <ul style="list-style-type: none"> <li>a Obtain written consent from their employees; and</li> <li>b Enable employees to withdraw their consent anytime, without penalty</li> </ul>

##### V ENHANCED FLEXIBILITY FOR EMPLOYERS

Extend option of time off for working on public holiday to more employees

BEFORE	AFTER
For work on public holidays, employers can offer time-off only to M&E's earning up to \$4,500 a month.	For work on public holidays, employers can offer time-off salary to: <ul style="list-style-type: none"> <li>- All M&amp;Es</li> <li>- Workmen earning above \$4,500 a month</li> <li>- Non-workmen earning above \$2,600 a month without penalty</li> </ul>

##### VI OTHER AMENDMENTS TO THE EMPLOYMENT ACT

BEFORE	AFTER
Employer only recognise medical certificates issued by: <ul style="list-style-type: none"> <li>- government doctors and</li> <li>- company-approved doctors</li> </ul>	Employer must recognise medical certificates issued by: <ul style="list-style-type: none"> <li>- any registered doctor and dentist</li> </ul>
	Clarifying that paid hospitalisation leave is to cover: <ul style="list-style-type: none"> <li>- The period requiring hospital care and the period of recuperation after being discharged;</li> <li>- Quarantine orders as required by law; and</li> <li>- Situations where the hospital doctor assesses that the patient is ill enough to require hospitalisation but is not hospitalised</li> </ul>



# NEWS

## THAILAND:

### NEW PROPERTY TAX LAW IN THAILAND



After numerous attempts over the years to reshape the way property tax is imposed in Thailand, new property tax legislation has finally entered into law in Thailand.

The new law replaces the current House and Land Tax Act and the Local Development Tax Act, which aims to encourage the productive use of land and improve tax collections. Taxes will commence to be collected under the new law from 1 January 2020.

#### TAXABLE PROPERTIES

The tax will apply to land as well as condominiums, apartments and buildings, including houses, or any construction which can be used as a residence or for storage, industrial or commercial purposes.

People will now potentially be liable to tax on their homes, although a generous tax exemption threshold will apply.

The tax will be imposed on property held at 1 January of each tax year.

#### TAX BASE

Tax is currently imposed under the House and Land Tax Act on a property's annual rental value at the rate of 12.5%.

Under the new law, the tax base shall be the appraised value of the property as determined for the purpose of collecting registration fees under the Land Code. In the case where there is no appraised value, the tax base will be calculated in accordance with the criteria, method and conditions as prescribed in the Ministerial Regulations.

#### TAX RATES

The following ceiling rates have been introduced for four categories of property:

- ① Properties used for agricultural purposes: 0.15%
- ② Properties used for residential purposes: 0.30%
- ③ Properties used for purposes other than (1) and (2): 1.20%
- ④ Vacant/non-utilised properties\*: 1.20%

\*If the land or building is left vacant or undeveloped for three consecutive years, the rate will increase by 0.3% every 3 years subject to a cap of 3%.



# NEWS

## THAILAND:

### NEW PROPERTY TAX LAW IN THAILAND (Con't)



Tax rates have been announced for 2020 and 2021. For example, for a condominium unit owned by an individual that uses the unit as their place of residence and their name appear in the house registration book, the tax rates are:

Appraised Value (Baht)	Tax Rates
≤40 million	0.02%
>40-65 million	0.03%
>65-90 million	0.05%
>90 million	0.1%

Tax rates after 2021 shall be prescribed by Royal Decree. The local authority empowered to collect the tax has the power to impose a higher rate but in any case it shall not exceed the ceiling rates.

#### TAX EXEMPTIONS

Tax exemptions are provided in the following cases:

- Land and buildings owned by individuals that are used for agricultural purposes shall be exempt from tax until 2022, after which a tax exempt threshold of Baht 50 million shall apply.
- A tax exempt threshold of Baht 50 million shall apply to land and buildings owned by individuals that are used as their place of residence, if their names appear in the house registration book on 1 January of the tax year.
- A tax exempt threshold of Baht 10 million shall apply to buildings owned by individuals, where they are not the land owner, that are used as their place of residence, if their names appear in the house registration book on 1 January of the tax year. By definition this would include a condominium unit.

#### TRANSITIONAL RELIEF

In the first three years that the new property tax is collected, if the tax assessed is higher than the tax previously payable under the House and Land Tax Act, the taxpayer shall be liable to pay the house and land tax amount plus a portion of the excess in each year, being 25% in the first year, 50% in the second and 75% in the third year.



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