

Legal Update

AMENDMENT TO CUSTOMS ACT B.E. 2469 (A.D.1926)

The Cabinet on 28 September 2010 has approved the draft amendment to Customs Act B.E. 2469 (A.D. 1926) relating to the amendment of penalty provision under the said Act to solve the controversial penalty provision which irritate the business operators. The said draft amendment will be forwarded to the House of Representatives for further consideration at later stage.

Under the current law, the operators accused of avoiding tariff payment could be subject to a fine payment of 4 times of good's price plus outstanding tariff whether the offender has wrong intention or not.

According to the draft amendment, the rate of fines under Sections 27 and 27 bis of the Customs Act in respect of the importing, bringing, exporting or taking smuggling of goods into or out of Thailand and avoiding, or attempting to avoid the payment of customs tax or tariff or any assistance in any way for importing or exporting of such goods, including any assistance in concealment, disposal or otherwise receipt of any goods with knowing that such goods are tax unpaid or restricted / prohibited goods or the importation of such goods is not in compliance with the customs procedures or made by evading tariff thereof, will be changed from "4 times of the good's price plus tariff" to be in range of "0.5 to 4 times of the good's price plus tariff".

Such amendment would cause the business operators accused of avoiding tariff payment to choose an alternative by appealing the case to the court and the court shall have discretion and more flexibility for consideration and imposition of the penalty as well. As such, in case the business operators have no wrong intention in violating such provisions, the fine at the lower rate may be imposed to them instead.

There is no change on the imprisonment penalty under both Sections.

AMENDMENT TO BUILDING CONTROL ACT B.E. 2522 (A.D. 1979)

The Cabinet on 12 October 2010 has approved the draft amendment to Building Control Act B.E. 2522 (A.D. 1979) (BCA). Such draft shall be forwarded to the House of Representatives for further consideration.

Certain significant provisions of the draft amendment to BCA are summarized as follows:

1. Adding the provision on details of technique in relation to the construction, alteration, demolition or moving of building which is changed rapidly according to the rules to be prescribed by the Minister with advice of the Building Control Board;
2. Adding the provision that the building owner, the building possessor or the operator of certain types of buildings shall be required to arrange for the insurance on liability of lives, bodies and properties of the third parties according to the regulations, procedures and conditions to be prescribed by the Minister with advice of the Building Control Board;
3. Amending the procedure of notifying the construction, alteration or demolition of building without applying for a permission from the local competent officer;
4. Revising the penalty provision in case of failure to comply with the law to be consistent with the amendment on the procedure of notifying and issuance of receipt of notification of intention for construction ("**Notice**"); and
5. Prescribing the provisional chapter to support the right of the Notice's holder prior to the enforcement of this amendment.

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EXEMPTION OF INCOME TAX ON PENSION INSURANCE

The Cabinet on 19 October 2010 has approved in principle the draft Ministerial Regulation on the exemption of personal income tax (PIT) relating to the allowance deduction of the insurance premium for the life insurance in pension policy in order to promote more usage of pension insurance policy for financial security after retirement.

Certain significant provisions of such draft are summarized as follows:

1. PIT for a taxpayer who pays the insurance premium for the life insurance in pension policy shall be allowed for deduction as allowance for PIT up to Baht 200,000 or not exceeding 15% of its total assessable income. Currently, a taxpayer has been allowed for deduction as allowance for PIT on life insurance premium up to Baht 100,000.

Therefore, with the new tax incentive, a taxpayer could enjoy a maximum insurance premium deduction of Baht 300,000 per year, if such taxpayer holds both general life and pension insurances.

2. The total of eligible deduction for all types of the premium for pension insurance including provident funds, government pension funds and retirement mutual funds (RMFs) must not be exceeding Baht 500,000.
3. This tax incentive shall be applied against the assessable income of taxable year 2010 which shall be submitted the tax returns in 2011 onwards.

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