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Long Term Resident Visa Scheme - A Post-Pandemic Measure to Attract Wealthy and Talented Foreigners to Thailand

タイでは、経済対策の一環として、外国の富裕層等を国内に呼び込むため、長期滞在者（LTR）ビザの制度が新設された。従来から存在するリタイアメントビザは、対象者の国籍が限定されていること、就労が認められないこと等の問題があったが、LTR ビザにおいては、富裕層及び年金受給者に加えて、高度専門職やタイからリモートで働く専門職も対象となる。LTR ビザの保有者及び家族は、最大 10 年間、タイに居住することが可能となる。

The Covid-19 pandemic has left a devastating effect on Thailand's economy. To restore the economy, stimulate domestic cash flow and attract wealthy and highly skilled talent to Thailand, the Thai Cabinet approved the new "Long-Term Resident Visa" (the "LTR Visa") as a new visa category on 14 September 2021, in order to attract wealthy and highly skilled foreigners to stay in Thailand on a long-term basis.

Background

Prior to the introduction of the LTR Visa scheme, foreigners who wished to stay in Thailand on a long-term basis after retirement were required to obtain Non-Immigrant Visa "O-X" (the "O-X Visa"). However, the O-X Visa was available to only 14 nationalities, and the holders of such O-X Visa were not permitted to work in Thailand. Although, in order to attract highly skilled professionals, visa and tax privileges have been granted under "Smart Visa" and "Eastern Economic Corridor (EEC)" schemes, there were certain restrictions (e.g., the EEC scheme is restricted to only certain provinces in the EEC zone). The new LTR Visa scheme offers a more unified approach and flexible conditions for wealthy individuals, retirees, work-from-Thailand professionals and highly skilled professionals to reside in Thailand on a long-term basis without any restrictions regarding nationality or location in Thailand. Moreover, it accommodates foreigners who wish to work remotely from Thailand, or so-called "digital nomads".

In response to the Cabinet resolutions on the LTR Visa, the Notification of the Ministry of Interior Re: Permission for Certain Groups of Foreigners to Reside in the Kingdom as a Special Case in accordance with the Measures to Encourage the Economy and Investment by Attracting High-Potential Foreigners to Thailand (the "MOI Notification") was enacted under the Immigration Act of 1979 and became effective from 31 August 2022. Under this MOI Notification, the Board of Investment of Thailand (the "BOI") has been assigned as the authority to designate the qualifications to apply for the LTR Visa.

Qualifications to apply for the LTR Visa

Under the MOI Notification, “High-Potential Foreigners” who are eligible to apply for the LTR Visa are classified into 5 categories i.e., (1) Wealthy Global Citizens, (2) Wealthy Pensioners, (3) Work-from-Thailand Professionals, (4) Highly Skilled Professionals, and (5) spouses and children who are under 20 years of age of the LTR Visa holder (collectively “**Dependents**”). The qualifications to obtain the LTR Visa for each category are stipulated under the BOI Notification No. Por. 2/2565 Re: Qualifications, Criteria, and Conditions for the LTR Visa in accordance with the Measures to Encourage the Economy and Investment by Attracting High-Potential Foreigners to Thailand effective from 30 June 2022. A summary of the qualifications is as follows:

No.	Categories	Qualifications
(1)	Wealthy Global Citizens	<ul style="list-style-type: none"> • must invest at least USD 500,000 in Thai Government bonds, foreign direct investment in companies, or real estate in Thailand • must have personal income of at least USD 80,000 per year • must have assets in Thailand or abroad of at least USD 1,000,000
(2)	Wealthy Pensioners	<ul style="list-style-type: none"> • must be more than 50 years old and be a retiree • must have personal income or pension of at least USD 80,000 per year. In case that the applicant receives personal income or pension below USD 80,000 per year, but not below USD 40,000 per year, he/she must invest at least USD 250,000 in Thai Government bonds, foreign direct investment in companies, or real estate in Thailand.
(3)	Work-from-Thailand Professionals	<ul style="list-style-type: none"> • must fulfill any one of the conditions concerning personal income as follows: <ul style="list-style-type: none"> - personal income of at least USD 80,000 per year in the last 2 years; or - personal income of less than USD 80,000, but not below USD 40,000 per year in the last 2 years, in this case, the applicant must hold a master’s degree, or own an intellectual property, or received Series A round funding which has passed the seed funding stage for his/her business in the amount of at least USD 1,000,000. • must be contracted to work for employers outside Thailand who fulfill any one of the characteristics as follows: <ul style="list-style-type: none"> - a listed company in any country; or - a company which has been in operation for at least 3 years and has at least USD 150,000,000 of total income in the last 3 years. • must have at least 5 years of working experience in the relevant field within the last 10 years.
(4)	Highly Skilled Professionals	<ul style="list-style-type: none"> • must be contracted and seconded to work in Thailand by overseas companies or higher education institutions or research centers in Thailand or Thai Government agencies in targeted industries, such as: <ul style="list-style-type: none"> - next generation automotive industry; - aviation industry; - advanced agriculture and biotechnology industry; - biofuel and biochemical industry; and - digital industry, etc. • must fulfill any one of the conditions concerning personal income as follows: (the applicant who is assigned to work in higher education institutions or research centers in Thailand shall be exempted from this personal income requirement) <ul style="list-style-type: none"> - personal income of at least USD 80,000 per year in the last 2 years; or - personal income of less than USD 80,000, but not below USD 40,000 per year, in this case, the applicant must hold a master’s degree or higher in the field of science or technology or have the expertise to work in the field that he/she has been assigned to work in Thailand. • must have at least 5 years of working experience in the relevant field (except for the applicant who is assigned to work in higher education

No.	Categories	Qualifications
		institutions or research centers in Thailand or holds a PhD degree or higher).
(5)	Dependents	Spouses and children who are under 20 years of age of the LTR Visa holder are eligible to apply for the LTR Visa (maximum 4 persons).

In addition to the qualifications listed above, all categories of High-Potential Foreigners must also have health insurance with at least USD 50,000 coverage or at least USD 100,000 deposit in their bank accounts (or at least USD 25,000 per each person in case of Dependents).

Privileges

The privileges which are granted under the LTR Visa scheme are as follows:

- 10-year renewable visa with multiple re-entry permit;
- permission to work in Thailand through the issuance of digital work permit (i.e., paperless work permit);
- fast-track services at international airports in Thailand;
- facilitation services at One Stop Service Center for Visa and Work Permit;
- exemption from the requirement to hire 4 Thais per 1 foreigner as a condition for visa extension; and
- relaxation on the reporting requirement to the Immigration Bureau (annual report instead of the 90-day report).

In addition, tax incentives are also provided i.e., a fixed rate of 17% for the personal income tax of Highly-Skilled Professionals and a tax exemption on the personal income tax of other categories of the LTR Visa holders for the income which is generated overseas.

Validity of the LTR Visa

The LTR Visa will be valid for 10 years from the date of issuance with multiple entries. The LTR Visa holders and their Dependents will be permitted to reside in Thailand for a period of 5 years and the LTR Visa will be renewable for a maximum period of 10 years.

Application Process

The applicant for the LTR Visa may register and submit the application form and supporting documents through the BOI's special website for the LTR Visa scheme (<https://ltr.boi.go.th/index.html>). The application and supporting documents will be considered by the officials within 20 working days. Once all documents have been verified, the applicant will receive a letter of qualification endorsement. The applicant shall proceed with the issuance of the LTR Visa at Thai Embassies or Consulates abroad or the immigration office in Thailand by submitting the letter of qualification endorsement, and collect the digital work permit at the One Stop Service Center for Visa and Work Permit or at labor offices in Bangkok or other provinces in Thailand.

Further Development

The LTR Visa has been open for application since 31 August 2022. According to the information given to the press by the deputy secretary-general of the BOI, as of 14 September 2022, there are approximately 400 LTR Visa applications filed with the BOI with the majority of the applications being from wealthy pensioners¹. In addition to the privileges currently provided under the LTR Visa scheme as mentioned above, the Government is also considering allowing qualified foreigners to purchase residential property and land in Thailand. This privilege will relax the provision under the Land Code of Thailand which prohibits foreign individuals from owning land and houses in Thailand. The ministerial regulation outlining the conditions for qualified foreigners to own land will be issued later. However, as of October 2022, the exact timeline for the enactment of such regulation cannot be determined, and it can be expected that the regulation will have to undergo debate and deliberation by both the public and relevant authorities before its enactment.

¹ <https://www.bloomberg.com/news/articles/2022-09-13/wealthy-americans-chinese-top-list-of-new-thai-visa-applicants?sref=aBuZv14Y>

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Singapore

Workplace Safety and Health Council's Code of Practice on Chief Executives' and Board of Directors WSH Duties' ("COP")

2022年9月19日に開催されたシンガポール労働安全衛生評議会で、労働大臣より「最高経営責任者及び取締役会の労働安全衛生義務に関する実践規範」が公表された。これは、2022年上半期の労働災害死亡率が前年より高かったことを踏まえ、労働安全衛生への意識と監督を強化するために労働省が講じた労働安全衛生施策である。

The COP was launched at The Singapore Workplace Safety and Health Conference 2022 held on 19 September 2022 by Dr Tan See Leng, Minister for Manpower.¹ It was one of the workplace safety and health (WSH) measures taken by the Ministry Of Manpower ("**MOM**") to increase ownership and oversight of WSH in light of higher rate of workplace fatalities in first half of 2022 compared to the previous year.

The COP was issued against the backdrop of MOM's imposition of a six-month period of Heightened Safety from 1 September 2022 to 28 February 2023, where among other things, the Chief Executive Officers ("**CEOs**") of companies that are found to have serious WSH lapses such as unsafe workplace conditions or poor risk controls may be required to personally account to MOM and take responsibility for rectifications.² Such companies may also be debarred from employing new foreign employees for up to three months and may be required to engage external auditors to conduct a thorough review of their WSH processes.

It is important to note, per Dr Tan See Leng, that the "*COP will apply to companies in all industries, even those that have no manual work and little risk of physical injury. This is because WSH covers both safety and health, which includes mental well-being. Companies should apply the COP principles to protect both physical safety and mental well-being of their workers.*"³

The COP will be gazetted as an Approved COP by October 2022⁴, which means that it "*is intended to be used as a yardstick to assess whether reasonable practicable measures have been taken to upkeep safety and health standards at the workplace*".⁵ While, the WSH Council has clarified that "[n]ot following the recommendations in an [Approved COP] in itself is not breaking the law, because this may not be the only means of achieving the intent of the regulations", it also stated that an Approved COP "*provides guidance for companies to attain the outcome stated in a regulation*",⁶ and that the COP "*has been developed to expound on the WSH Act and provide greater clarity on and strengthen WSH ownership of Company Directors.*"⁷ It would therefore be prudent for companies' directors including their CEOs or equivalent officers involved, in executive decisions or policy and decision-making to take heed of the COP.

The following is a summary table of the COP's four Principles and 17 corresponding Measures taken from the COP which may be accessed [here](#).⁸

Principles	Measures
Principle 1: Ensure WSH is integrated into business decisions and have clarity of roles and responsibilities of Chief Executive and individual members of the Board of Directors in leading WSH.	Measure 1: Assign and document WSH roles and responsibilities of individual Company Director(s).
	Measure 2: Establish the WSH policy, standards and strategic goals for the organisation.

¹ <https://www.tal.sg/wshc/media/announcements/2022/launch-of-the-code-of-practice-on-chief-executives-and-board-of-directors-wsh-duties>; <https://www.mom.gov.sg/newsroom/speeches/2022/0919-speech-by-dr-tan-see-leng-at-workplace-safety-and-health-conference-2022>.

² <https://www.mom.gov.sg/workplace-safety-and-health/heightened-safety-period/debarment-of-company-and-ceo-to-take-responsibility>.

³ <https://www.mom.gov.sg/newsroom/speeches/2022/0919-speech-by-dr-tan-see-leng-at-workplace-safety-and-health-conference-2022>.

⁴ <https://www.mom.gov.sg/newsroom/speeches/2022/0919-speech-by-dr-tan-see-leng-at-workplace-safety-and-health-conference-2022>;

<https://www.tal.sg/wshc/-/media/tal/wshc/resources/publications/codes-of-practice/files/acop-faq-20220919.ashx>;

<https://www.mom.gov.sg/workplace-safety-and-health/wsh-measures-to-address-spate-of-accidents-in-2022/approved-code-of-practice-for-company-directors-wsh-duties>.

⁵ <https://www.mom.gov.sg/legislation/workplace-safety-and-health>.

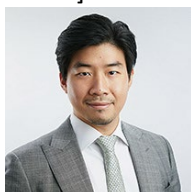
⁶ <https://www.tal.sg/wshc/-/media/tal/wshc/resources/publications/codes-of-practice/files/acop-faq-20220919.ashx>.

⁷ <https://www.tal.sg/wshc/media/announcements/2022/launch-of-the-code-of-practice-on-chief-executives-and-board-of-directors-wsh-duties>.

⁸ <https://www.tal.sg/wshc/-/media/tal/wshc/resources/publications/codes-of-practice/files/code-of-practice-on-chief-executives-and-board-of-directors-wsh-duties-20220919.ashx>.

Principle 2: Continuously build a strong WSH culture, set the tone and demonstrate visible leadership in embodying and communicating highly effective WSH standards.	Measure 3: Publish the organisation’s WSH commitment, and review, endorse and track the organisation’s WSH targets and performance regularly.
	Measure 4: Set WSH as a regular agenda item in management/board meetings.
	Measure 5: Ensure sufficient resource allocation to WSH.
	Measure 6: Facilitate direct reporting of WSH issues to the Company Director(s).
	Measure 7: Acquire WSH knowledge.
	Measure 8: Conduct engagements to understand processes, workers’ concerns and communicate the need to prioritise WSH.
	Measure 9: Set and demand effective WSH standards and performance from vendor and partners.
Principle 3: Ensure that WSH management systems are highly effective and reviewed regularly.	Measure 10: Ensure effectiveness of WSH management systems and maintain oversight of compliance with safe work procedures.
	Measure 11: Ensure suitable, adequate and timely risk assessment.
	Measure 12: Recognise and reward workers’ efforts toward achieving good WSH performance.
	Measure 13: Endorse immediate remedial/disciplinary actions to address workers’ repeated non-compliance with safe work procedures.
Principle 4: Empower workers to actively engage in WSH.	Measure 14: Ensure processes are in place for workers to receive information on WSH risks and safe work procedures in a timely manner.
	Measure 15: Set up reporting systems, encourage proactive reporting and, ensure proper follow-up to address WSH issues.
	Measure 16: Commit resources and protected time for workers to undergo WSH training and refresher courses.
	Measure 17: Involve workers in the joint development and implementation of strategies/programmes to improve WSH.

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Philippines

Revised Rules of the Telecommuting Act

2019年5月にフィリピンで施行された在宅勤務法により、在宅勤務従業員に職場で働く従業員と同等の待遇を与え、データ保護の原則を遵守することを条件に、雇用主が従業員に在宅勤務プログラムを任意で提供することが認められた。今般の改正規則では、在宅勤務プログラムを採用・実施することを奨励するという政府の方針に沿ってより詳細を規定しつつ、業種や一定の累計の企業に対してその特殊性に応じた規定を新たに設けている。

On 16 September 2022, the Department of Labor and Employment (“**DOLE**”) issued Department Order No. 237, series of 2022 on the revised implementing rules and regulations of the Telecommuting Act (the “**Revised Rules**”), which supersede Department Order No. 202, series of 2019.

Background

The Telecommuting Act (Republic Act No. 11165) which became effective on 10 May 2019, allowed employers to offer a telecommuting program to employees on a voluntary basis, provided that minimum labor standards continue to be met, the telecommuting employees are given fair treatment comparable to those working at the employer’s premises, and data protection principles are observed.

The Revised Rules affirm the policy of the government to encourage employers and employees to jointly adopt and implement telecommuting programs to optimize the benefits of technology, taking into consideration an employee’s competencies, available technologies and resources, nature of work to be done and other practical considerations. However, there may be additional points that must be considered for businesses engaged in the information technology-business process management (“**IT-BPM**”) sector and registered with the Philippine Economic Zone Authority (“**PEZA**”), which we further discuss below.

Highlights of the Revised Rules**1. Application of labor standards**

The Revised Rules apply to employers and employees in the private sector that implement a telecommuting program. The Revised Rules provide that terms and conditions of telecommuting shall not be less than minimum labor standards, and not diminish or impair the terms and conditions of employment in employment contracts, company policies or practices, or collective bargaining agreements.

Work performed in the alternative workplace is still considered as work performed in the regular workplace of the employer, and the time the employer is required to be on duty and rendering work in the alternative workplace shall still be counted as hours worked.

2. Telecommuting Program

The telecommuting program may be in the form of a separate policy or incorporated into existing policies or employment contracts. The employer or the employee may propose the telecommuting program, which will be adopted on such terms as may be mutually agreed upon.

The Revised Rules provide for clearer guidelines on the provisions that must be included in a telecommuting program, which include:

- a) Eligibility criteria to participate in the telecommuting program (e.g., job qualification, nature or functional areas of work, roles and positions, personal circumstances, past performance, etc.)
- b) Acceptable alternative workplaces including minimum requirements for computer hardware and software (e.g., internet connectivity, security and terminals)
- c) Occupational safety and health standards, such as ergonomics, good housekeeping, mental health programs as reasonably necessary

- d) Performance evaluation standards for telecommuting employees, including means of communicating feedback or addressing performance issues
- e) Code of Conduct such as attendance, appearance and demeanor during virtual meetings, and other measures to ensure compliance with work standards
- f) Data protection, confidentiality and security
- g) Emergency protocols or contingency plans to address device breakdown, power interruption, weather disturbances and other events
- h) Duration of the telecommuting, such as termination or change of work arrangement due to business necessity
- i) Dispute resolution to resolve employee grievances from the implementation and enforcement of the program, which shall include an agreement for referral to voluntary arbitration

3. Principle of fair treatment

Telecommuting employees shall be covered by the same set of applicable rules, company policies or existing collective bargaining agreements. Employers shall also ensure that telecommuting employees are given same treatment as employees working at the employer's premises, such as with respect to (a) the rate of pay, including overtime pay and other benefits, (b) the right to rest days and regular holidays, (c) workload and performance standards, provided that parties may mutually agree to different performance standards that may be more appropriate, and (d) access to training and career development opportunities without additional costs.

4. Employer responsibilities, reporting and record keeping

Employers are also required to ensure that measures are taken to prevent the telecommuting employee from being isolated from the rest of the employees in the company, by giving the telecommuting employee opportunities to meet (physically or through telecommunication) with colleagues and allow access to the employer's premises and company information.

The Revised Rules also clarify that facilities, equipment and supplies to implement the telecommunicating program, including expenses for the acquisition, proper handling, usage, maintenance, repair and return of such facilities, equipment and supplies are considered the ordinary and necessary costs of the business of the employer.

Employers are required to notify the DOLE of the implementation of the telecommuting arrangement through the DOLE's establishment report system. Further, employers should keep and maintain for at least three (3) years the documents and records proving that parties voluntarily adopted telecommuting.

Additional considerations for PEZA-registered IT-BPM businesses

PEZA-registered IT-BPM businesses will have to note the requirements of the Fiscal Incentives Review Board ("FIRB") in considering whether to adopt, or continue current telecommuting arrangements, as it may have an impact on their fiscal incentives.

Section 309 of the National Internal Revenue Code, as amended by the Corporate Recovery and Tax Incentives for Enterprises Act (the "CREATE Act"), requires that registered projects or activities should be exclusively conducted within the geographical boundaries of the economic or freeport zone being administered by the relevant investment promotion agency ("IPA") (e.g., PEZA) and that any project or activity conducted or performed outside the economic or freeport zone shall not be entitled to incentives, unless such project or activity is conducted or operated under another IPA.

The FIRB, which has power to exercise policy making and oversight functions in the administration and grant of incentives by IPAs, has issued Resolution No. 026-22 dated 14 September 2022, allowing PEZA-registered IT-BPM businesses an extension of until 31 December 2022 to temporarily adopt work from home arrangements not exceeding 30% of their total workforce without adversely affecting their income tax incentives under the CREATE

Act. Registered business enterprises exceeding the 30% threshold shall not be entitled to avail of the fiscal and non-fiscal incentives for the months their enterprises were non-compliant.

However, subject to the procedures outlined in FIRB Resolution No. 026-22, affected registered enterprises in the IT-BPM sector may be allowed to transfer their registration to the Board of Investment until 31 December 2022 and adopt up to 100% work from home arrangements. In the meantime, a Senate bill has been filed proposing to amend Section 309 of the National Internal Revenue Code in order to allow such entities to adopt work from home arrangements while still retaining their fiscal incentives.

Conclusion

While the suitability of telecommuting varies across occupations and business sectors, the updates to the implementing rules of the Telecommuting Act signal that remote or hybrid work arrangements have indeed become part of the “new normal”, and companies should keep in mind the Revised Rules when navigating through the opportunities and challenges of implementing such work arrangements.

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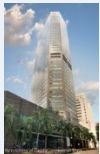
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