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I. New “Dee-Delivery” Regulation to Protect Online Shoppers in Thailand

Introduction

According to the statistical database of the Office of the Consumer Protection Board (the “OCPB”), there have been a substantial volume of complaints related to online shopping using cash on delivery services, particularly regarding product mismatches and fraudulent orders. In response to these problems, the OCPB introduced the “Dee-Delivery” regulation.

On 5 July 2024, the Contract Committee of the OCPB officially published in the Royal Gazette, as subordinate regulation under the Consumer Protection Act of 1979 (the “CPA”), a new notification prescribing that any delivery business that provides cash on delivery services is a controlled business with respect to the issuance of a payment receipt (the “**New Notification**”). This New Notification sets forth new requirements for delivery service providers who offer cash on delivery services, aiming to ensure that online shoppers do not receive nonconforming or unsolicited goods. The New Notification will come into effect after 90 days have elapsed from the date of its publication in the Royal Gazette (i.e., 3 October 2024).

Key Takeaways from the New Notification

The key takeaways from the New Notification are as follows.

I. Scope of related parties

The regulation under the New Notification involves the three main parties described below:

(i) Business operators

“Business operators” refers to delivery service providers who are engaged in the business of offering cash on delivery services (“**Business Operator(s)**”). This business involves transporting goods from senders to

consumers where the payment for the goods is collected either by way of a cash payment or a fund transfer into an account upon the delivery of the goods¹.

(ii) Senders

“Senders” refers to any persons who sell and deliver goods to consumers using the cash on delivery services that are provided by the Business Operators (“**Sender(s)**”)².

(iii) Consumers

“Consumers” refers to any persons who purchase goods online and choose to use the cash on delivery services that are provided by the Business Operator (“**Consumer(s)**”).

II. Obligations and rights under the New Notification

To address the challenges faced by Consumers who use cash on delivery services to engage in online shopping, the New Notification imposes legal obligations on Business Operators and also grants specific rights to Consumers as further described below.

(i) Issuance of a payment receipt

A Business Operator must issue and deliver a payment receipt to a Consumer immediately upon the delivery of the goods³. The payment receipt must be stated in Thai, be clearly visible and readable with a specific font size and contain a certain number of characters⁴. In addition, the payment receipt must include essential information and conditions, which include the following.

- (a) **Sender details:** including the name, address, telephone number and email address thereof;
- (b) **Business Operator details:** including the name, address, telephone number and email address thereof;
- (c) **Delivery details:** including the information of the employee who delivered the goods and collected fees from the Consumer; the Consumer’s information; the parcel information and details of the goods such as the type, kind, characteristics, size, weight, quantity, color, price; the duration that the Business Operator will hold the payment from the Consumer before transferring it to the Sender; and the timeframe during which the Consumer is able to request a return and refund, etc.;
- (d) **Refusal right statement:** a statement indicating that the Consumer has the right to reject the goods and receive a refund within the holding period (as explained further below); and
- (e) **Signatory:** the signature of the authorized person issuing the payment receipt and the person receiving the payment.

Additionally, the payment receipt must not include any statements that exempt or limit the liability of the Business Operator and Sender or prohibit the Consumer from returning or exchanging the goods under any or specific circumstances. It also must not stipulate that the Business Operator and Sender will not refund the Consumer under any circumstances⁵.

(ii) Five-day holding period and refund

The Business Operator is required to hold the payment collected from the Consumer for five days after the Consumer receives and pays for goods⁶. This period allows the Consumer to inspect the goods and request a refund if necessary. If the Consumer does not object within this holding period, the Business Operator may transfer the payment to the Sender.

However, if the Consumer makes a claim for returning the goods and requests a refund within the five-day holding period, the Business Operator must verify the claim by inspecting the returned goods from

1 Clause 3 of the New Notification
 2 Clause 3 of the New Notification
 3 Clause 5 of the New Notification
 4 Clause 4 of the New Notification
 5 Clause 7 of the New Notification
 6 Clause 4(4.4) of the New Notification

the Consumer. After verifying whether the returned goods match the claim, the Business Operator must issue a full refund to the Consumer within fifteen days from the date of receiving the claim. The Business Operator must also return the goods to the Sender.

(iii) Rights to return the goods and receive a refund

The New Notification outlines the conditions under which the Consumer may return the goods and request a refund from the Business Operators. These conditions include the following.

- (a) **Mismatching or defective goods:** the goods do not match the order or are defective⁷; and
- (b) **Goods that were not ordered**⁸: in this case, if the Consumer disputes the order after making the payment at the time of the delivery and claims that they did not order the goods, the Business Operator holding the payment must receive the goods back from the Consumer and issue a refund immediately unless the Sender can prove that the Consumer indeed ordered such goods.

If the Consumer finds that the delivered goods fall under any of the conditions described in (a) or (b) above after unpacking the goods, the Consumer may make a claim for returning the goods and request a refund through the process explained in (ii) above.

(iv) Right to inspect the goods before making the payment therefor

Before making the payment for the goods, the Consumer is allowed to open and inspect the goods in the presence of the Business Operator and take a photo and video as evidence⁹. If the goods are found to fall under any of the conditions in (a) or (b) above, the Consumer shall have the right to reject the delivered goods immediately.

However, if it is impossible to inspect the goods upon the delivery thereof, the Consumer may inspect the goods later and take a photo and video as evidence. If the inspection shows that the goods fall under any of the conditions in (a) or (b) above, the Consumer must submit the evidence to the Business Operator in order to reject the goods and request a refund within five days as explained in (ii) above.

III. Criminal penalties

Business Operators who fail to issue a payment receipt with the required details and within the specified period as stipulated under the New Notification shall be subject to a criminal penalty of imprisonment not exceeding one year or a fine not exceeding THB 200,000 or both under Section 57 of the CPA.

Conclusion

The Dee-Delivery regulation represents a significant step in consumer protection in this digital age. Having clear and comprehensive regulations will help build consumer confidence and promote the growth of the e-commerce market. Going forward, cash on delivery service providers and their employees should take note of the New Notification, including their duties and obligations thereunder, to ensure compliance with the New Notification before it becomes effective in October this year. Meanwhile, Consumers should understand their rights and responsibilities to fully benefit from the New Notification.

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⁷ Clause 4(4.1) of the New Notification

⁸ Clause 4(4.2) of the New Notification

⁹ Clause 4(4.3) of the New Notification



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II. Update on the New Investment Promotion Packages (EV Battery Management and/or Energy Storage, Data Hosting, Quarantine Facilities for Animals for Export) and the New Investment Promotion Measure to Enhance the Automotive Part Industry

On 14 June 2024, new investment promotion packages for several key business sectors were approved at a meeting of the Thailand Board of Investment (BOI). Additionally, a brand-new investment promotion measure targeting the automotive part industry was approved, aimed at enhancing the production efficiency of the automotive part industry and increasing the competitiveness of domestic manufacturers as well as promoting the industry to develop into a production base for new industries in the future. The details of these measures are described below¹.

I. Newly added BOI Businesses²

(i) EV battery management and/or energy storage

Businesses related to EV battery management and/or energy storage have been added to the BOI promotional businesses to further develop Thailand's comprehensive EV battery administration and management system and to support the entire EV ecosystem. Details of the conditions and incentives of each business can be summarized as follows:

Eligible Activity	Material Conditions and Incentives
Category 7.4.1: Service repair centers of used EV batteries	<ul style="list-style-type: none"> - The project must be certified for quality and safety by EV car manufacturers or EV battery manufacturers. - The project must have a testing process for the capacity and safety of batteries, in accordance with the BOI's approval. - The project must have the expenses for personnel in engineering and technical fields of not less than THB 1,500,000 per year, which must be for newly hired employees. In addition, an investment capital of not less than THB 1,000,000, excluding the cost of land, working capital and transportation, must be made. Both the expenses for the salary of personnel and investment capital must be in accordance with the requirements stipulated by the BOI. - The project must obtain ISO 14000 certification before utilizing the tax incentives. In the case of non-utilization, ISO 14000 certification must be obtained prior to the

¹ BOI Press Release No. 67/2567 (Aor. 26) dated 14 June 2024

² BOI Announcement No. Sor. 5/2567 Re: Amending the List of the BOI Promotion Activities according to BOI Announcement No. 9/2565 dated 28 June 2024

Eligible Activity	Material Conditions and Incentives
	<ul style="list-style-type: none"> commencement date of the project operation start-up. - Lead-acid batteries are not eligible for promotion. - The project will be entitled to a 3-year CIT exemption³.
Category 7.4.2: Reuse or repacking of disused EV batteries and/or Energy Storage ⁴	<ul style="list-style-type: none"> - The project must manage disused EV batteries, excluding lead-acid batteries and/or energy storage used in Thailand only. - The project must have an installation process of battery management system (BMS) and a testing process of the capacity and safety of batteries. - The project must obtain ISO 14000 certification before utilizing the tax incentives. In the case of non-utilization, ISO 14000 certification must be obtained prior to the commencement date of the project operation start-up. - The project will be entitled to a 3-year CIT exemption.

(ii) Data hosting

To support the rising demand for data hosting and the development of the digital industry in Thailand, the BOI has added a data hosting business as a new BOI promotion category. The material conditions and incentives are as follows:

Eligible Activity	Material Conditions and Incentives
Category 8.2.4: Data hosting ⁵	<ul style="list-style-type: none"> - The project must have a leasing server service for data hosting. - The project must be located in at least two data centers in Thailand that have obtained ISO/IEC 27001 certification. - The project must have an investment capital of not less than THB 5,000,000,000, excluding the cost of land and working capital. - The project will be entitled to an 8-year CIT exemption.

(iii) Quarantine facilities for animals for export

To prepare for the growth of Thailand's international livestock market, the BOI has also added a promotion category for quarantine facilities for animals for export. To be eligible for the BOI promotional business under this category, the quarantine facilities must be certified pursuant to the standards of the Department of Livestock Development or relevant authorities. The project will be entitled to a 3-year CIT exemption.

II. Investment Promotion Measure to Enhance the Automotive Part Manufacturer Industry⁶

As the BOI's aim is to stimulate and encourage automotive part manufacturers to enhance their ability to compete in terms of production and to prepare to transition to a new industry, the BOI approved this Investment Promotion Measure to Enhance the Automotive Part Manufacturer Industry. In this regard, to be eligible for this BOI measure, applicants must be engaged in activities that fall under one of the following BOI promoted business categories:

- Category 3.4: Manufacture of engines, equipment or parts; and

³ CIT means Corporate Income Tax.

⁴ Ibid, Supra Note 2.

⁵ Ibid, Supra Note 2.

⁶ BOI Announcement No. 11/2567 Re: Investment Promotion Measure to Enhance the Automotive Part Manufacturer Industry dated 28 June 2024

➤ Category 3.5: Manufacture of automotive parts.

In addition, existing projects that have already received BOI promotion as well as new projects may apply for this BOI measure. The details of the material conditions and incentives are as follows:

Material Conditions

- The investment value of the project must be not less than THB 1,000,000, excluding the cost of land and working capital.
- The investment value or expenses includes the cost of the machinery and equipment, the application of the standards used in the new industry, the advisory fees for enhancing production or changing to the new industry, the fees for training personnel in technical fields or any programs related to industry enhancement, the software programs or information systems used and the lease/use of cloud or data center services.
- The applicant must propose a plan for investment to enhance the automotive part industry and/or transition to the new industry based on the criteria prescribed by the BOI, such as changing machinery to enhance production efficiency, applying the standards used in the new industry, training personnel in technical fields or any programs related to industry enhancement, etc.
- The applicant must submit the application by the last business day of 2025.

Tax Incentives

- The project will be entitled to an exemption on import duties for machinery.
- The project will be entitled to a 3-year corporate income tax exemption for 50% of the investment capital for enhancing the relevant industry, excluding the cost of land and working capital. If such project uses machinery that is related to or supports the domestic automated machinery manufacturing industry and such machinery is not less than 30% of the value of the machinery that is changed, the project will be entitled to a 3-year corporate income tax exemption for the proportion of 100% of the investment capital for automation and robotics, excluding the cost of land and working capital.
- The exemption period will start from the date revenue is derived after the BOI certificate is issued, and the project must be completed within 3 years from the date on which the BOI certificate is obtained.

Should you require further details in respect of any measures or wish to receive further updates, please feel free to contact us.

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III. Promoting Thailand as a Target Destination for World-Class Events

I. Background

As a part of the nation's vision to become a tourism hub and build economic growth, the Thai government aims to promote Thailand as a host destination for world-class events. Such promotion is being implemented through recent relevant legislations as follows:

- The first legislation is the Notification of the Board of Investment No. Sor. 3/2567 re: Promotion for Businesses related to the Organization of Large Concerts, Sporting Events, and International Festivals dated 22 April 2024 ("**BOI Notification**") issued by the Board of Investment ("**BOI**"), which aims to promote businesses related to the organization of world-class events held in Thailand by providing both tax and non-tax incentives therefor and also specifies the details of conditions relating to the eligibility for such incentives.
- The second legislation is the Notification of the Department of Employment re: Prescription of Work which Are Necessary or Urgent or Ad-Hoc Work dated 20 June 2024 ("**DOE Notification**") issued by the Department of Employment ("**DOE**"), which includes work relating to the organization of mega events, international festivals, etc., as a particular type of work which is necessary or urgent or ad-hoc work which can be performed by an expatriate with a simple notification to the DOE, without obtaining a traditional work permit.

In this relation, this article aims to provide a key summary of the BOI Notification and DOE Notification.

II. Key Summary of the relevant legislations

(i) BOI Notification

Through the BOI Notification, a business of organizing large concerts, sporting events, and international festivals is included as a promoted business in addition to the list of promoted businesses under the BOI Notification No. 9/2565 re: Measures to Promote Investment in Industries that are Important to the Country's Development dated 8 December 2022. A business of organizing large concerts, sporting events, and international festivals is entitled to B-level incentives, which consist of the following benefits for 3 years from the date of issuance of the investment promotion certificate:

- Tax incentives: Exemption of import duty on machinery; and
- Non-tax incentives: Permission to hire foreigners, including non-skilled workers, skilled workers and experts from abroad to work in Thailand

To obtain a promotion for the abovementioned business from the BOI, the business operator is required to fulfill the conditions as follows:

- (1) having a plan for operating and organizing a large concert, sporting event, and international festival with the scope of business approved by the BOI, however, this does not include the organization of conferences and product exhibitions as the main event;
- (2) having a minimum investment capital as determined by the BOI of at least THB 100,000,000 per event, which serves as expenses relating to the management and administration of the large concert, sporting event, and international festival;
- (3) proposing the event plan and attaching documents or agreements on the bidding or documents presenting the ownership of the right to organize the large concert, sporting event, and international festival within the scope of the promoted business to the BOI for its approval before enjoying the rights and incentives;
- (4) not being allowed to extend the period for machinery import; and
- (5) being allowed to use second-hand machinery from foreign countries.

Notably, this investment promotion is available to either Thai or foreign juristic persons.

(ii) **DOE Notification**

By virtue of Section 61, Paragraphs 1 and 2 of the Foreigners' Working Management Emergency Decree B.E. 2560 (2017) and its amendment, the DOE had formerly issued the Notification of the Department of Employment re: Prescription of Work which Are Necessary or Urgent or Ad-Hoc Work dated 14 October 2020 ("**DOE's Former Notification**") to prescribe the list of work which are necessary or urgent or ad-hoc work ("**Ad-Hoc Work**") which an expat can perform by simply notifying the DOE without obtaining a work permit. However, the DOE has recently issued the DOE Notification to repeal the DOE's Former Notification and has also added the following as one type of Ad-Hoc Work:

"(13) Work which is supported by the government authority, as follows:

- (a) organization of mega event or organization of international festival
- (b) international musical festival or concert".

In this connection, it should be noted that the newly added Ad-Hoc Work must be supported by the government authority, such as having obtained a subsidy or having received assistance from the government authority in organizing the event. Also, the duration of such work, from the commencement until its completion, must be within 15 days, however, such duration may be extendable once for another 15 days.

Notably, the scheme under the DOE Notification is applicable to expats who will enter Thailand to perform the prescribed Ad-Hoc Work regardless of whether the BOI promotion is obtained.

(iii) **Conclusion**

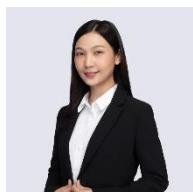
For conducting a business of organizing the organization of a world-class event in Thailand, the eligible investor should be mindful of the available BOI promotion and may consider applying for it so as to be entitled to the tax and non-tax benefits as described above. In addition, the scheme which allows an expat to perform work relating to the organization of mega events or organization of international festivals and international musical festivals or concerts in Thailand with a simple notification could facilitate and reduce some obstacles relating to the relevant personnel, particularly where the relevant foreign staff needs to enter Thailand for the purpose of organizing such event and/or festival.

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Other Publications

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Lexology GTDT - Real Estate 2024 – Thailand

This article provides comparative analysis of real estate regulations in different jurisdictions worldwide, with answers to crucial questions in key areas such as: acquisition of real estate, including recording conveyance documents, foreign investors, investment entities, leases and mortgages and contracts and financing, including liens, interest, enforcement, protection of collateral, covenants and bankruptcy.



Chambers Global Practice Guides Investing In... 2024 Thailand – Law & Practice

The Investing In... 2024 guide features over 30 jurisdictions. The guide provides the latest information on foreign direct investment, market trends, mergers and acquisitions, corporate governance and disclosure/reporting, capital markets, antitrust/competition, tax, employment and labour, and IP and data protection.

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