

Legal Issues on FDI in Thailand Part 3: Employment of Foreign and Thai Employees

Employment and Labour Protection

The Civil and Commercial Code (“CCC”) and the Labour Protection Act B.E. 2541 (1998) (“LPA”) are the major employment and labor protection laws. The CCC defines employment as a hire of work (hire of services) and provides the general requirements for duties and liabilities of employers and employees. The LPA sets out working requirements (working hours, working days, leaves, holidays, wages, wages payment, overtime and holiday pays, etc.), working restrictions for women and children, work rules and policies, termination notice, retirement age, severance pay, special severance pay, relocation, change of employers, etc. Foreign and Thai employees receive equal treatment under the CCC and the LPA.

Employer-Employee Relationship

The Labor Relations Act B.E. 2518 (1975) promotes good relationships between employers and employees and their representatives. They can negotiate working conditions and settle a labor dispute. This law also governs lockouts and strikes, employer associations, labor unions, and unfair practices.

Social Security Fund (“SSF”)

The Social Security Act B.E. 2533 (1990) requires an employer hiring at least one employee to participate in the SSF so that the SSF can provide compensations and allowances to the employee for injury, sickness, incapacity, death, childbirth, retirement and unemployment. The government, the employer, and the employee make monthly contributions to the SSF at the rates of 5% (reduced to 2.5% in 2021 due to the Covid-19) of the monthly basic salary of the employee. The maximum salary amount for calculation of the contribution amount is THB15,000.

Workmen’s Compensation Fund (“WCF”)

The Workmen’s Compensation Act B.E. 2537 (1994) requires employers to remit their contributions to the WCF annually at the rates from 0.2% to 1% of the employees’ wages, depending on the types of their businesses and associated risks. The maximum wages used for calculation of the employer’s contribution is THB240,000 per annum per employee. The WCF provides compensations to employees for injury, sickness, invalidity and death caused by employment.

Labor Court

The Act on Establishment of Labor Court and Procedures B.E. 2522 (1979) establish labor courts and provides procedures for court cases related to employment contracts, employment termination, unfair termination and statutory payment of severance pay and other legal and contractual entitlements.

Visas and Work Permits

The Immigration Act B.E. 2522 (1979) requires foreigners to obtain a non-immigration visa “B” type (working visa) from the Immigration Bureau for working in Thailand, except for a few types of works and a few kinds of foreigners.

The Emergency Decree on Foreign Employee Management B.E. 2560 (2017) requires foreigners to obtain a work permit from the Department of Labor of the Ministry of Labor and Social Welfares before they can work in Thailand. Foreign workers from Cambodia, Laos and Myanmar enjoy a better treatment than those from other countries. Other requirements for granting work permits, such as the quota of workers from each country, the ratio between Thai and foreign employees, the minimum wages payable to foreign employees, apply.

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