

Wissen & Co Newsletter

January 2025

TOPIC

- Installation of Solar Panels without requiring Factory Permission
- Global Minimum Corporate Income Tax

➤ Installation of Solar Panels without requiring Factory Permission

Currently, according to the Ministerial Regulation specifying Type, Kind or Size of the Factory B.E. 2563 (A.D. 2020) issued under the Factory Act B.E. 2535 (A.D. 1992) ("**Ministerial Regulation**"), No. 88 of the table attached to the Ministerial Regulation states that any factory which produces electricity from solar power shall be deemed to be a Category 3 factory except for solar power generation which is installed on the roof, rooftop or any part of a building which a person can live in or use and has a production capacity of not more than 1,000 kilowatts. With such provision, if the factory wished to produce electricity from solar power on the roof, rooftop or any part of the building which a person can live in or use and has a production capacity of 1,000 kilowatts or more, such factory is deemed to be a Category 3 factory and is required to have a license before operating or producing the electricity under Section 7 of the Factory Act B.E. 2535 (A.D. 1992) ("**Factory Act**").

However, on 17th December 2024, the Cabinet approved a draft Ministerial Regulation issued under the Factory Act ("**Draft Ministerial Regulation**") which amends the provision in No. 88 of the table attached to the Ministerial Regulation by revising the exception in cases where the factory is not required to apply for a license for the production of electricity from solar power. The new provision states that any factory which produces electricity from solar power shall be deemed a Category 3 factory except for one where the solar power generation is installed on the roof, rooftop or any part of a building which a person can live in or use. In this regard, all production of electricity from solar power which the solar power generation is installed on the roof or solar rooftop of all production facilities will not be considered as a Category 3 factory

and it is not required to apply for a factory license under the Factory Act.

Although a factory license is not required, other relevant permits and licenses may be necessary under various laws and regulations, such as those governing the energy industry, energy development and promotion, and building control which will be on a case-by-case basis.

Please note that this Draft Ministerial Regulation has not yet been in force. It will come into force upon its publication in the Royal Gazette.

➤ Global Minimum Corporate Income Tax

On 26th December 2024, the Emergency Decree on Top-up Tax, B.E. 2567 (A.D. 2024) (“**Emergency Decree**”) was officially promulgated in the Royal Gazette. Its aim is to collect additional tax revenue from multinational enterprises for accounting periods commencing on or after 1st January 2025.

Thailand enacted these regulations in accordance with the standards established by the Organisation for Economic Co-operation and Development (OECD), in line with the implementation of international top-up tax laws. This is to protect Thailand's interests and support measures preventing the erosion of the international tax base.

Who will these regulations apply to?

This Emergency Decree is applicable exclusively to large multinational enterprises (MNEs) – both Thai MNEs investing internationally, and foreign MNEs investing in Thailand where their Ultimate Parent Entities (UPEs) report consolidated revenue of at least €750 million for at least two of the four accounting periods immediately preceding the accounting period under consideration.

Top-up Tax

For MNEs under the Emergency Decree whose effective tax rate falls below 15%, there are mechanisms for collecting additional top-up tax such as:

a. Domestic Top-up Tax: entities under MNEs operating within Thailand will be subject to top-up tax when their local effective tax rate is lower than 15%; or

b. Income Inclusion Rule: the top-up tax will be paid in the country of the Ultimate Parent Entities (UPEs), intermediate parent entities, and partially owned parent entities that hold ownership stakes in low-tax foreign jurisdictions.

Currently, Thailand already has a basic corporate income tax of 20%. However, there are companies that have received investment promotion from the Board of Investment (BOI) and are, therefore, exempt from corporate tax or are entitled to receive corporate tax reductions, resulting in an actual tax rate of less than 15%. For these reasons, after the Emergency Decree came into effect, many companies will have to pay a top-up tax in order to reach the minimum tax rate of 15%.

Should you have any questions arising from our legal newsletter, please do not hesitate to contact us at wissen@wissenandco.com.

Mr. Wichien Harnpraween
Senior Partner and Managing Director

บริษัท วิสเซน แอนด์ โค จำกัด (สำนักงานกฎหมาย)
1168/42 อาคารลุมพินี ทาวเวอร์ ชั้น 17
ถนนพระราม 4 แขวงทุ่งมหาเมฆ
เขตสาทร กรุงเทพมหานคร 10120
เลขประจำตัวผู้เสียภาษี 0105548051805

Wissen & Co Ltd
1168/42, Lumpini Tower, Level 17
Rama IV Road, Thung Mahamek,
Sathorn, Bangkok 10120 Thailand
Tax ID: 0105548051805

Tel: +(66) 2259 2627 thru 9
Fax: +(66) 2259 2630
Mobile: +(66) 63 202 8100
Email: wissen@wissenandco.com
Website: www.wissenandco.com