



LEGAL DIGEST: BANGLADESH, CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - November 2022

LAWS AND REGULATIONS
Banking and Finance
<p><i>Bangladesh Bank (FE) Circular no. 31, on Encashment Certificate against inward remittances on account of Information Technology Enabled Services (ITES) exports, dated 16 November 2022.</i></p> <p>Bangladesh Bank allowed mobile financial service providers to repatriate (conversion of foreign currency into local currency) export income and inward remittance. All authorized dealers will provide encashment certificates to MFS (Mobile Finance Service) providers. Certificates can be issued with respect to inward remittances relating to exports of IT services.</p>
Energy
<p><i>Parliament re-enacted the law named Bangladesh Oil, Gas and Mineral Corporation Ordinance, 1985 to Bangladesh Oil, Gas and Mineral Corporation Act 2022, dated 20 November 2022.</i></p> <p>Aiming to update the old ordinance government has re-enacted an ordinance named Bangladesh Oil, Gas and Mineral Corporation Act 2022. According to the new law, a corporation will be established named the Bangladesh Oil, Gas, and Mineral Corporation. The corporation may also be referred to as Petrobangla.</p>
Litigation
<p><i>Parliamentary amendment on The Bangladesh Evidence (Amendment) Act 2022, Dated 20 November 2022.</i></p> <p>Among other things, digital evidence has been made admissible according to this Act. As stated in the amended law, digital record or electronic record means any record or information generated, prepared, sent, received, or stored in magnetic, electro-magnetic, optical or microfilms, computer memory, computer-generated microfiche including audio, video, DVD, CCTV footage, drone data and records from a cell phone, hardware, software or any other digital device as defined in Digital Security Act, 2018.</p>



LAWS AND REGULATIONS

Digital Evidence is mainly associated with Electronic Crime or E-Crime. To regulate such type of crime, GOB has amended this section. A provision was kept for making a forensic examination of digital evidence.

As stated in the amended law, for the purpose of authenticating the digital evidence, there will be a forensic lab designed to examine such evidences. In this regard, GOB has established several forensic labs up to now, and also planning to establish more digitalized labs in Bangladesh.

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LAWS AND REGULATIONS

Advertising

Sub-Decree No. 232 ANK. BK dated 4 November 2022 issued by the Royal Government of Cambodia (“RGC”) on “Management of the Advertising of Goods and Services”

Individuals must apply for a license to advertise goods and services in accordance with the laws and regulations in force; they are prohibited from advertising without a license.

Before advertising goods and services, individuals must apply for an Advertising Compliance Certificate from the Consumer Protection Competition and Fraud Repression Directorate General of the Ministry of Commerce.

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LAWS AND REGULATIONS#

Hospitality Industry

Decision No. 986/ICT dated 14 December 2021 issued by the Ministry of Information, Culture and Tourism on “Restaurant Businesses”

Restaurant Business Promotion Policy

Promotion Policy by Zone

- Zone 1 refers to poor, remote areas where the socioeconomic infrastructure is not conducive to investment and business operation. Restaurants established in these areas will receive the incentives as specified in Articles 9 and 10 of this decision (see details below).
- Zone 2 refers to areas with the most favorable socioeconomic infrastructure for investment and business operation. Restaurants established in these areas will not receive any incentives since there is good infrastructure and facilities.
- Zone 3 refers to specific economic zones. Restaurants established in these areas must comply with the policies of the specific economic zone.

Article 9: Profit Tax Exemption Policy

Zone 1 restaurants that have a permit to operate and are certified as a clean and safe restaurant with a Champa flower ranking of from 1-5 will be exempt from paying profit tax beginning on the first day of operation, as follows:

- 5 Champa flowers restaurants in Zone 1 will be exempted from profit tax for five years.
- 4 Champa flowers restaurants in Zone 1 will be exempted from profit tax for four years.
- 3 Champa flowers restaurants in Zone 1 will be exempted from profit tax for three years.
- 2 Champa flowers restaurants in Zone 1 will be exempted from profit tax for two years.
- 1 Champa flower restaurants in Zone 1 will be exempted from profit tax for one year. The practices of Zone 3 must be consistent with the specific economic zone policy.

Article 10: Customs and Value Added Tax Exemption Policy

Zone 1 restaurants that have a permit to operate and are certified as a clean and safe restaurant with a Champa flower ranking of from 1-5 Champa flowers will also be entitled to customs duty exemption and zero-rated value added tax for one year from the date of business operation and being certified as a clean and safe restaurant.



LAWS AND REGULATIONS#

Two Types of Restaurant Businesses

1. General restaurants; and
2. Restaurants that are part of a tourism business

Two Forms of Restaurant Businesses

1. Restaurants that do not provide eat-in services; and
2. Restaurants that provide eat-in services.

Request to Operate a Restaurant Business

Individuals and legal entities aiming to operate a restaurant business must meet the following conditions:

- Have the restaurant business registered according to the laws and regulations of the Lao PDR;
- Have the required registered capital as specified in this decision, and other relevant laws and regulations (see below); and
- Not be prohibited by the law from operating a restaurant business.

To obtain a restaurant business operation license, after the restaurant business is registered, it must submit the documents as specified in Article 20 of the decision along with a request letter to the one-stop service office of the information, culture and tourism sector.

Registered Capital

- Restaurants with more than 100 seats must have minimum registered capital of US\$100,000.
- Restaurants with 50-99 seats must have minimum registered capital of US\$50,000.
- Restaurants with 20-49 seats must have minimum registered capital of US\$10,000.
- There is no minimum registered capital for restaurants with fewer than 20 seats.

The Ministry of Information, Culture and Tourism supervises restaurant businesses and the Tourism Management Department is the primary coordinator.

This decision enters into force from the date of signing, and replaces Decision No. 059 dated 26 February 2007.



LAWS AND REGULATIONS#

Restaurant businesses that were established before the issuance of this decision must comply with this updated decision within 120 days from the date it enters into force.

Decision No. 985/ICT dated 14 December 2021 issued by the Ministry of Information, Culture and Tourism on “Hotel Businesses”

Hotel Business Promotion Policy

Promotion Policy by Zone

- Zone 1 refers to poor, remote areas where the socioeconomic infrastructure is not conducive to investment and business operation. Hotel businesses established in these areas will receive the incentives as specified in Articles 9 and 10 of this decision (see details below).
- Zone 2 refers to areas with the most favorable socioeconomic infrastructure for investment and business operation. Hotel businesses established in these areas will not receive any incentives since there is good infrastructure and facilities.
- Zone 3 refers to specific economic zones. Hotel businesses established in these areas must comply with the policies of the specific economic zone.

Article 9: Profit Tax Exemption Policy

Zone 1 hotel businesses that have a permit to operate and are certified with from 1-5 stars will be exempted from paying profit tax starting from the first day of operation, as follows:

- 5-star hotels in Zone 1 will be exempted from profit tax for five years.
- 4-star hotels in Zone 1 will be exempted from profit tax for four years.
- 3-star hotels in Zone 1 will be exempted from profit tax for three years.
- 2-star hotels in Zone 1 will be exempted from profit tax for two years.
- 1-star hotels in Zone 1 will be exempted from profit tax for one year.

Article 10: Customs and Value Added Tax Exemption Policy

Zone 1 hotel businesses that have a permit to operate and are certified with from 1-5 stars will also be entitled to customs duty exemption and



LAWS AND REGULATIONS#

zero-rated value added tax for one year from the business operation date.

Two Types of Hotel Businesses

- Hotels consist of hotels, boutique hotels, condominium hotels, resorts, villas, lodges, and bungalow hotels as well as inns, motels, hostels, and guesthouses.
- Flats and houses for rent consist of condominiums, apartments, houses, and flats.

Request to Operate a Hotel Business

Individuals and legal entities aiming to operate a hotel business must meet the following conditions:

- Have the hotel business registered according to the laws and regulations of the Lao PDR;
- Have the required registered capital as specified in this decision, and other relevant laws and regulations (see below); and
- Not be prohibited by the law from operating a hotel business.

To obtain a hotel business operation license, after the hotel business is registered, it must submit the documents as specified in Article 19 of the decision along with a request letter to the one-stop service office of the information, culture and tourism sector.

Registered Capital

- Hotel businesses with more than 100 rooms must have minimum registered capital of US\$500,000.
- Hotel businesses with 50-99 rooms must have minimum registered capital of US\$100,000.
- Hotel businesses with 10-49 rooms must have minimum registered capital of US\$10,000.
- There is no minimum registered capital for hotel businesses with fewer than 10 rooms.

The Ministry of Information, Culture and Tourism supervises hotel businesses and the Tourism Management Department is the primary coordinator.



LAWS AND REGULATIONS#
<p>This decision enters into force from the date of signing and replaces Decision No. 159 dated 30 July 1997.</p> <p>Hotel businesses that were established before the issuance of this decision must comply with this updated decision within 120 days from the date it enters into force.</p>
Tourism
<p><i>Decision No. 607/ICT dated 30 September 2022 issued by the Ministry of Information, Culture and Tourism on “Tourism Businesses”</i></p> <p>Investment Promotion Policy</p> <p>The government supports the investment of both domestic and foreign individuals and legal entities in order to attract more investors and tourists. Tourism businesses established and operated in accordance with the laws of the Lao PDR will receive exemption from customs duty. In addition, the government will provide support regarding labor importation.</p> <p><u>Types of Tourism Businesses</u></p> <ul style="list-style-type: none">▪ Tour operators; and▪ Travel agencies. <p><u>Types of Services provided by Tourism Businesses</u></p> <ul style="list-style-type: none">▪ International tourism;▪ Domestic tourism; and▪ Specific area tourism. <p>Remark: Domestic and specific area tourism are reserved occupations for Lao citizens.</p> <p><u>Request to Operate a Tourism Business</u></p> <p>Individuals and legal entities aiming to operate a tourism business must meet the following conditions:</p> <ul style="list-style-type: none">▪ Have the tourism business registered according to the laws and regulations of the Lao PDR;



LAWS AND REGULATIONS#
<ul style="list-style-type: none"> ▪ Have an office and materials as determined by the law; ▪ Have full-time or part-time tour guides; ▪ Have a list of tourist places and the price of each activity; ▪ Have a business investment license; ▪ Have the registered capital as specified in this decision, and other relevant laws and regulations (see below); ▪ Have a bank account as determined by the relevant laws and regulations; and ▪ If operated by a foreign individual or legal entity, have deposited at least 30% of the total registered capital in Lao Kip at a commercial bank. <p>To obtain a tourism business operation license, after the tourism business is registered, it must submit the documents as specified in Article 30 of the decision along with a request letter to the one-stop service office of the information, culture and tourism sector.</p> <p>Registered Capital</p> <ul style="list-style-type: none"> ▪ International tourism businesses must have minimum registered capital of LAK1.5 billion. ▪ Travel agencies must have minimum registered capital of LAK1 billion. ▪ Domestic tourism businesses must have minimum registered capital of LAK500 million. ▪ Specific area tourism businesses must have minimum registered capital of LAK100 million. <p>The Ministry of Information, Culture and Tourism supervises tourism businesses and the Tourism Management Department is the primary coordinator.</p> <p>This decision enters into force from on 14 November 2022.</p> <p>This decision replaces Decision No. 1150 dated 25 October 1993.</p>
Environmental laws
<p><i>Decree No. 348/Gov dated 11 November 2022 issued by the Government on the “International Trade of Endangered Aquatic Animals, Wild Animals, and Plant Management”</i></p> <p>The decree specifies the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) lists of endangered aquatic</p>



LAWS AND REGULATIONS#

animals, wild animals, and plants as follows:

1. List I: Aquatic animals, wild animals, and plants that are threatened and at risk of extinction, affected by hunting, exploitation, trade, and illegal use.
 - List II: Aquatic animals, wild animals, and plants that are not threatened and at risk of extinction, but may be at risk of extinction in the future if they are not well managed.
 - List III: Aquatic animals, wild animals, and plants that can be widely propagated naturally but may be at risk of negative impacts in the future, which a party country has proposed for protection by asking other party countries to cooperate in controlling their trade.

Registration and Declaration

Individuals, legal entities, and organizations that possess and propagate aquatic animals, wild animals, and plants, including remains, body parts, and products on the CITES lists, and intend to engage in international trade must register and declare what they possess with CITES.

CITES will consider the application form and issue the enterprise certificate within 12 days after submission of the application.

International Trade of Endangered Aquatic Animals, Wild Animals, and Plants

List I animals and plants: Individuals, legal entities, and organizations are not allowed to trade except for non-commercial purposes and such trade must be authorized by CITES.

List II animals and plants: Individuals, legal entities, and organizations are allowed to trade but must carry out a study on the survival of the animal or plant being traded and have it verified and approved by the scientific unit.

List III animals and plants: Individuals, legal entities, and organizations are allowed to trade but such trade must be authorized by CITES.

Applying for an Import-Export Certificate

Individuals, legal entities, and organizations must submit the required documents as specified in Articles 11, 12, 13, and 14 of this decree to CITES.

The standard application forms will be set by CITES. The fees for import-export are specified in the Decree on Official Fees and Service Fees.

CITES will consider the application form and issue the certificate within 30 days.



LAWS AND REGULATIONS#

Export certificates are valid for six months while import certificates are valid for 12 months from the date the certificate is issued, and cannot be renewed.

The Ministry of Agriculture and Forestry supervises the international trade of endangered aquatic animals, wild animals, and plants and is assigned to coordinate with the relevant authorities.

This decree enters into force from 30 December 2022 onwards.

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LAWS AND REGULATIONS

Banking and Finance

Directive No. 13/2022 and Directive No. 14/2022 each dated 25 November 2022 issued by the Central Bank of Myanmar regarding “***Requirement to pay fees to the Central Bank of Myanmar on changing the Registered Address of Banks and Non-Bank Financial Institutions***”

The Directives stipulate that banks and non-bank financial institutions are obligated to pay MMK 500,000 and MMK 200,000, respectively, to the Central Bank of Myanmar upon changing their registered address, in accordance with Section 14(b)(2) of the Financial Institutions Law, 2016.

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LAWS AND REGULATIONS

Medicine

Circular No. 12/2022/TT-BYT dated 21 November 2022 by the Ministry of Health “Amending Circular No. 35/2018/TT-BYT on Good Manufacturing Practices (GMP) for Pharmaceutical Products and Medicinal Materials”

This circular supplements the regulations on the determination of the effective period of GMP compliance during the COVID-19 epidemic or other epidemics, natural disasters, and wars as follows:

- For GMP certificates granted by drug regulatory agencies of countries in the European Economic Area:
 - If the GMP certificate of the manufacturer is renewed according to the Notification of the European Medicines Agency (EMA) concerning plans applied to medicinal products for human use during the COVID-19 or other epidemics or natural disasters, the effective period of GMP compliance will comply with the notification of the EMA;
 - If the GMP certificate is renewed, the effective period of the renewed GMP certificate will apply.
- For GMP certificates granted by other agencies, the effective period will be the period specified by the drug regulatory agency of the nation where the GMP certificate is granted or the period specified in the GMP certificate.

Circular No. 12/2022/TT-BYT enters into force on 5 January 2023.



LAWS AND REGULATIONS

National Master Plan

Resolution No. 138/NQ-CP dated 25 October 2022 by the Government on the “National Master Plan 2021-2030 With a Vision Toward 2050”

The resolution specifies the development priority of the establishment and development of the North-South economic corridor by 2030.

This is an economic corridor with a particularly important position, connecting economic promotion areas, large urban areas, and economic centers, greatly contributing to the national socioeconomic development, and creating a spillover effect that will promote the development of the coastal areas and western regions of Vietnam.

It will establish a link between regional centers and create an inter-regional economic relationship along the arterial corridor. It will also extend the development of urban areas, industrial zone systems, and service and tourism centers in association with provincial and regional urban centers.

Specifically, the resolution calls for:

- The development of the Lao Cai - Ha Noi - Hai Phong - Quang Ninh economic corridor as the main connecting arterial corridor of the northern economic promotion region, connecting the Northern Midlands and Mountain areas with large economic centers and seaports.
- The development of the Moc Bai - Ho Chi Minh City - Vung Tau economic corridor associated with the Trans-Asia economic corridor as the gateway to the sea of the Southeast region, promoting the economic development of the Southeast region, Mekong Delta, and Western Highlands.

The resolution entered into force on 25 October 2022.



LAWS AND REGULATIONS

Employment

Official Dispatch No. 3511/BHXH-TST dated 18 November 2022 of the Vietnam Social Security on “Solutions for Reducing Late Payments of Social Insurance, Health Insurance, and Unemployment Insurance Premiums in the Last Months of 2022”

To minimize late payments, the Vietnam Social Security has requested that directors of the provincial and city social security agencies:

- Notify the results of the payment of social insurance, health insurance, unemployment insurance, occupational accident and occupational disease insurance to employers to follow up to ensure full- and on-time payments.
- Organize meetings with the enterprises that are making late payments of social insurance premiums late to get them to fully pay in arrears and avoid incurring new debts.
- Widely publicize on mass media the enterprises that owe a large amount or are very late in paying their social insurance, health insurance, and unemployment insurance premiums.
- Inspect enterprises that pay their social insurance premiums at three or more months behind schedule and impose administrative penalties for all violations.
- For enterprises that fail to comply or intentionally delay complying with decisions on administrative penalties that have been issued, a decision to enforce the implementation of these decisions under their competence as prescribed in Clause 44 Article 1 of the Law on Handling of Administrative Violations revised in 2020 shall be promulgated.
- For those enterprises deliberately evading payment or making late payments of social insurance, health insurance, and unemployment insurance premiums, to closely and promptly coordinate with the police to collect documents and information to prove fraud, then complete the dossier and transfer it to the investigating agency to handle.

International Trade

Circular No. 32/2022/TT-BCT dated 18 November 2022 by the Ministry of Industry and Trade “Amending Circular No. 05/2022/TT-BCT”



LAWS AND REGULATIONS

prescribing the Rules of Origin under the Regional Comprehensive Economic Partnership (RCEP) Agreement

This circular (the “**New Circular**”) specifies the replacement of certain appendices related to the certification and inspection of origin mentioned in Circular No. 05/2022/TT-BCT (the “**Prior Circular**”).

- Appendix I on Product-Specific Rules mentioned in Point a, Clause 1, Article 4 of the Prior Circular is replaced with Appendix I of the New Circular.
- Appendix III that contains the C/O Form RCEP for Exports and the C/O Continuation Sheet in Point c, Clause 1, Article 4 of the Prior Circular is replaced with Appendix II of the New Circular.
- The list of agencies and organizations granting the C/O Form RCEP in Vietnam has been updated in the Online Certificate of Origin Issuance and Administration System of the Ministry of Industry and Trade at <https://ecosys.gov.vn>.

Circular No. 32/2022/TT-BCT enters into force on 5 January 2023.

Tax & Accounting

Decree No. 91/2022/NĐ-CP dated 30 October 2022 by the Government “Amending Decree No. 126/2020/NĐ-CP Elaborating the Law on Tax Administration”

The decree specifies that the total provisional corporate income tax paid for the four quarters of the year must equal at least 80% of the corporate income tax payable under the annual tax finalization dossier.

This is a change from Decree No. 126/2020/NĐ-CP, which specified that the total provisional corporate income tax paid for the first three quarters of the year must equal at least 75% of the corporate income tax payable under the annual tax finalization dossier.

For the financial year 2021, provisional corporate income tax will be paid as shown below. If as of the effective date of this decree:

- The provisional tax paid by the taxpayer in the first three quarters of 2021 is at least 75% of the annual finalized tax, the regulations of



LAWS AND REGULATIONS

this decree on the minimum ratio of the provisional corporate income tax for the four quarters of the year (at least 80% of the annual finalized tax) will not apply.

- The provisional tax paid by the taxpayer in the first three quarters of 2021 is less than 75% of the annual finalized tax, the regulations on the minimum ratio of the provisional corporate income tax for the four quarters of the year (at least 80% of the annual finalized tax) may be applied if it does not lead to an increase in late payment interest.

Decree No. 91/2022/NĐ-CP entered into force on 30 October 2022.

Circular No. 67/2022/TT-BTC dated 7 October 2022 by the Ministry of Finance “Guiding Tax Liabilities when Enterprises Contribute to and use the Science and Technology Development Fund”

If within five years from when a contribution was made to the Science and Technology Development Fund in accordance with the regulations, an enterprise does not use, or uses less than 70% of the annual contribution:

- The enterprise will pay corporate income tax calculated on the unused contributed amount or used less than 70% of the annual fund contribution to the State Budget and also pay the interest generated from such additional corporate income tax.
- The interest rate for calculating the interest on the recovered corporate income tax amount is the one-year term Treasury bond interest rate applied at the time of withdrawal, and the interest calculation period is two years.

Circular No. 67/2022/TT-BTC enters into force on 23 December 2022.

Circular No. 65/2022/TT-BTC dated 2 November 2022 by the Ministry of Finance “Guiding Decree No. 98/2020/ND-CP on Administrative Penalties for Violations Against Provisions for Trading, Manufacturing, Sale of Counterfeit Goods and Protection of Consumers’ Interests”

This circular replaces Circular No. 149/2014/TT-BTC dated 10 October 2014.



LAWS AND REGULATIONS

It specifies that an illegal gain in cash is determined as the entire amount of money that an organization or individual obtained from violating administrative rules and illegally transferring and selling goods or providing services after deducting direct production costs.

The amount of money that a violating organization or individual obtains from committing an administrative violation equals the quantity of transferred or sold goods or services multiplied by the unit price of the goods or services minus the direct production cost of the goods or services.

The direct production cost is deductible if the violating organization or individual provides adequate evidence to prove the legality and validity of the cost.

Circular No. 65/2022/TT-BTC enter into force on 1 January 2023.

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Information included in this document does not represent legal advice. This document is not intended to represent a comprehensive list of all new laws and regulations issued or published in the relevant jurisdictions.