



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

Legislative developments - October 2021

LAWS AND REGULATIONS

Banking & Finance

Circular No. 33 of the Foreign Exchange Policy Department of Bangladesh Bank dated 18 October 2021 on the “Repatriation of export proceeds through Online Payment Gateway Service Providers”

Service exports, which are services provided by residents in Bangladesh to entities in other countries, form a major part of the economy of Bangladesh. Exporters of services (for example, a resident of Bangladesh who inspects the quality of cloth from local dealers for a foreign garment buyer) are usually paid online through payment wallets, instead of via transfer into bank accounts. Such payment wallets must be licensed in Bangladesh and are referred to as Online Payment Gateway Service Providers (“OPGSPs”). Further, all payments have to be routed through Authorized Dealers (“ADs”).

Previously, Bangladesh Bank had issued a circular dated December 28, 2017 allowing repatriation of remittances only through OPGSPs having standing arrangements with ADs, with a further requirement for ADs to maintain separate nostro collection accounts for each OPGSP.

The new circular provides that now exporters of services can repatriate their remittances through any legitimate payment system apart from OPGSPs, and also removes the requirement of having standing arrangements with ADs and maintaining separate nostro collection accounts with ADs.

This is a welcome step, as it widens the scope of repatriation of income against service exports. It gives flexibility to both the service provider and the service recipient to choose a payment system that is mutually convenient for them. Therefore, the new circular promotes the ease of doing business in Bangladesh and facilitates a rise in service exports.



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*Circular No. 44 of the Department of Offsite Supervision of Bangladesh Bank dated 17 October 2021 on the “**Submission of information on Non-Banking Asset (NBA)**”*

On 20 September 2021, Bangladesh Bank issued a circular outlining the policy framework regarding NBAs. According to section 8 of this circular, scheduled banks are required to submit semi-annual reports on such bank’s NBAs to the Department of Offsite Supervision.

The new circular (Circular No. 44) provides the format in which such information is to be provided. Additionally, the time period of the reports has been specified as January to June (to be submitted by the end of July) and July to December (to be submitted by the end of January).

This is a positive development, as it provides clarity to scheduled banks on compliance with regulatory norms, which is essential for smooth functioning of the banking system in Bangladesh.

Pandemic-related regulations

*Circular No. 30.31.0000.112.42.001.21-4482 of the Flight Standard and Regulations Division of the Civil Aviation Authority of Bangladesh on the “**International passenger flight operation to/from Bangladesh**”, dated 23 October 2021.*

Under the circular, countries have been categorized into 2 groups. Group A consists of 13 countries, being Armenia, Bulgaria, Estonia, Georgia, Latvia, Lithuania, Moldova, Mongolia, Palestine, Romania, Serbia, Slovenia, and Ukraine. Group B consists of all other countries not included in Group A. Further, each group is divided into two sub-groups, being those fully vaccinated and those not fully vaccinated.

For countries under Group A, inbound travelers fully vaccinated as of 14 days before travel will be required to go through a 7-day home quarantine period. Inbound travelers not fully vaccinated will be required to go through a 7-day institutional quarantine period at a government nominated facility or hotel, and their release at the end of such period shall be conditional upon a negative RT PCR test result.

For countries under Group B, inbound travelers fully vaccinated as of 14 days before travel will not be required to go through any quarantine period. Inbound travelers not fully vaccinated will be required to go through a 14-day home quarantine period. Inbound travelers from countries under Group B can transit via countries under Group A provided they remain confined to the transit area of the airport.



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All inbound travelers above 12 years of age must carry a negative RT PCR test result from a test conducted within 72 hours of departure.

This circular marks a significant relaxation from the earlier circular dated 16 August 2021, whereby the minimum quarantine period for inbound travelers fully vaccinated as of 14 days before travel was 14 days. Further, in some cases inbound travelers not fully vaccinated were not allowed to enter into Bangladesh.

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Pandemic-related regulations

Notification No. 453 of the Inter-Ministerial Commission for Combating COVID-19 dated 16 October 2021 on “Revised Travel Conditions and the Implementation of Health Measures and Quarantine Requirements in Cambodia for Travelers in Accordance with the New Normal”,

Under the notification, the commission has shortened the quarantine period for fully vaccinated travelers. Foreign investors, technical experts, diplomats, and cooperation project managers and coordinators as well as Cambodian officials entering Cambodia will be required to go through only a three-day quarantine period, while general passengers, both Cambodians and foreigners, will have to quarantine for seven days.

Inbound passengers who have not been fully vaccinated will be required to go through the full 14-day quarantine. Upon their arrival, they must take a rapid test and a PCR test at the quarantine location.

In order to be eligible for the shortened quarantine period, foreigners entering Cambodia need to present a medical certificate for a negative COVID-19 result of a test taken within 72 hours. They must also carry their vaccination card or certificate to prove their vaccination status. In addition, they must obtain a visa at the Cambodian embassy located closest to their home country, as visas on arrival will not be offered.

Furthermore, all inbound passengers, both Cambodians and foreigners, will be required to have proof of accommodation during the quarantine period and must have a COVID-19 insurance policy issued by Forte Insurance (Cambodia) Plc.

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Environment

*Decision No. 0948/IC of the Ministry of Industry and Commerce dated 12 October 2021 on the “**Environmental Impact Risk Assessment of Industrial Processing Plants**”*

The Ministry of Industry and Commerce issued this decision to implement and clarify Article 24 of the Industrial Processing Law No. 48/NA dated 27 December 2013.

This decision classifies industrial processing plants based on the level of their environmental impact, such as air pollution, wastewater, noise, light, odor, vibration and waste volume, which are divided into three levels:

- Industrial processing plants with a high level of environmental impact
- Industrial processing plants with a medium level of environmental impact
- Industrial processing plants with a low level of environmental impact

This decision will enter into force on 30 October 2021, after it was published in the Lao Official Gazette on 15 October 2021.

Taxation

*Notification No. 3688/MOF of the Ministry of Finance dated 13 October 2021 on “**Self-Service Tax Declaration through the Online System during the COVID-19 Pandemic**”*

Per this notification, private enterprises, legal entities registered under the Tax Department, provincial, Vientiane Capital, and district tax authorities that have used the TaxRis system should not file tax returns at the tax declaration service counter in order to prevent the spread of COVID-19 in the Lao PDR.

Tax declaration can be made through <http://taxservice.mof.gov.la>. Private enterprises and legal entities that have not been registered in the TaxRis system and wish to file tax returns can contact the staff at the tax declaration service counter by telephone or WhatsApp for registration.



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Pandemic-related procedures and restrictions

Notice No. 1330/PMO of the Prime Minister's Office dated 15 October 2021 on "Reinforcement Measures on the Containment, Prevention, and Comprehensive Response to the COVID-19 Pandemic for the Period 16 to 30 October 2021"

The government of the Lao PDR has extended COVID-19 restriction measures for another 15 days until 30 October 2021 and issued this notice to ensure continued compliance with the measures as provided in Prime Minister Order No. 15/PM dated 21 April 2021, Notice No. 1260/PMO dated 30 September 2021, and other measures issued by the COVID-19 Taskforce.

Restrictions in areas with community spread of COVID-19 are extended as follows:

- Massage parlors, beauty salons, barbershops, night markets, food gardens, and tourist attractions must remain closed.
- Factories and industrial plants in areas with community spread within the factory or the community must remain closed, except for factories that have been authorized by the COVID-19 Taskforce to continue operations, i.e. factories that produce consumer goods, medicines, or medical equipment. Factories that remain open must do so in strict compliance with COVID-19 prevention measures. Any factory that does not comply with all regulations and measures will be temporarily closed.
- Individuals are prohibited from entering or exiting areas with community spread of COVID-19 except those with prior authorization from the COVID-19 Taskforce or relevant authorities.
- Indoor and outdoor fitness centers and stadiums must remain closed, and outdoor exercise in public areas with community spread of COVID-19 (red zones) is also prohibited.
- All parties, gatherings, and social events are prohibited in all locations.
- Stockpiling, hoarding, or increasing the price of goods is prohibited.



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- Road traffic across Vientiane Capital and any province with community spread of COVID-19 is prohibited from 22:00 until 5:00, except for freight transportation vehicles, emergency vehicles, and vehicles of the COVID-19 Taskforce or government officials undertaking their work.
- Schools and educational institutions at every level are to remain closed.
- Meetings and conferences or other gatherings with more than 20 persons are prohibited, including religious festivals and activities. Should any individual or organization, including government agencies, wish to hold a conference or gathering, it must request authorization from the COVID-19 Taskforce.
- Ministries and equivalent organizations, and enterprises in Vientiane Capital and other provinces can allow their employees and government officials to work on a rotational basis or work from home through electronic means. Those considered in the “at-risk” groups and pregnant women who cannot be vaccinated shall work from home.

Extended relaxed measures:

- Shopping malls, retail shops, supermarkets, minimarts, and fresh markets that comply with COVID-19 prevention measures may remain open. COVID-19 prevention measures must be fully implemented, including temperature checks, wearing facemasks, and ensuring social distancing of at least one meter. All such retailers and market venues must strictly close by 8pm.
- Funerals, wakes, and other religious services must be held in accordance with the instructions provided by the COVID-19 Taskforce.
- Barbershops and beauty salons that are not in red zones may resume operations, with COVID-19 prevention measures, including social distancing, strictly followed at all times. Employees and customers must have received two doses of vaccine before they may receive services, and such businesses must close at 7pm.
- Massage parlors, beauty salons, and barbershops, may open in localities without community spread of COVID-19, however service providers and patrons must be fully vaccinated, strictly implement infection COVID-19 prevention measures, and must close by 8pm.



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- Restaurants and cafes in localities without community spread may continue to provide dine-in services, however, tables must be organized at least one meter apart, while service of alcohol is prohibited. Restaurants must strictly comply with all COVID-19 prevention measures. Restaurants in areas with outbreaks of COVID-19 may provide takeaway services only.
- Factories and plants in localities without community spread may continue operations, but employees must receive two doses of COVID-19 vaccine and must not reside in an area with community spread (red zones). Factories that wish to house employees on site may do so but must first submit a plan to the COVID-19 Taskforce for consideration.
- Conferences or meetings may be held in areas that are not red zones but social distancing and other COVID-19 prevention measures must be strictly enforced. Participants and attendees must have received two doses of COVID-19 vaccine. Should conferences be held in different provinces, relevant provincial authorities must be notified in advance.
- Boats may be used for fishing activities in rivers that act as borders with neighboring countries between 6am and 6pm only, while local authorities are tasked with strictly monitoring and reporting all boat activities.
- Travel within localities that have not experienced an outbreak may continue as usual.
- Land, water, and air transportation may resume between provinces that do not have community spread of COVID-19 without a quarantine requirement.
- Foreign citizens who travel to the Lao PDR and intend to travel to another province must submit to relevant officials a travel itinerary, evidence of a 14-day quarantine, and authorization from the COVID-19 Taskforce without having to undertake quarantine at the destination province.
- Foreigners who reside in the Lao PDR or have been in the Lao PDR for some time will be allowed to travel under the same conditions as Lao citizens.
- Travel to or from provinces with outbreaks of COVID-19 will require authorization from the provincial taskforce at the province of origin or the destination province.



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- Drivers of interprovincial freight transportation vehicles may deliver their cargo to their destination without unloading their cargo during the trip. Drivers will not be required to undertake COVID-19 tests or quarantine at their destination province but must comply with COVID-19 measures outlined by the COVID-19 Taskforce.
- Indoor and outdoor fitness centers and stadiums in provinces without community spread may continue operations, however, such businesses may not serve alcohol at their premises and must comply with all COVID-19 prevention measures.

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| <p><i>Notification 35/2021 dated 3 October 2021 issued by the Central Bank of Myanmar on “Deposit and sale of export income in foreign currency”</i></p> <p>The Notification states that exporters are required to deposit export proceeds in foreign currencies into their bank accounts as required under the Foreign Exchange Management Law 2012 (“FEML”) and Foreign Exchange Management Rules 2014.</p> <p>It further states that exporters who have bank accounts with authorized dealer banks (“AD Banks”) and have received foreign currency export proceeds may:</p> <ul style="list-style-type: none"> ▪ use the proceeds for their own purposes and sell within 30 days of the transfer to their bank accounts, and ▪ sell the remaining amounts to AD Banks at market exchange rate within 30 days from the date of transfer. |
| <p><i>Law no. 57/2021 dated 6 October 2021 issued by the State Administration Council on “Amendments to the Foreign Exchange Management Law”</i></p> <p>The Law amends Section 41 of the FEML, which previously restricted ‘foreign exchange licensees’ from violating any rules, regulations, procedures etc. issued under the FEML. The Law has removed the term ‘foreign exchange licensees’ and replaced it with ‘anyone.’</p> <p>Furthermore, the Law also adds a sub-section to Section 44 which stipulates that persons who violate Section 41 will be punished with imprisonment for up to one year or a fine or both.</p> |
| <p><i>Notification 3/2021 dated 6 October 2021 issued by the Working Committee to Address Covid-19 Economic Impact on “Extension of application date for Covid-19 Relief Loans”</i></p> <p>As per this Notification, the Working Committee to Address Covid-19 Economic Impact has extended the date for applying for relief loans (at 1% interest p.a.) from 30 September 2021 to 10 October 2021. These loans will be disbursed to the livestock sector, including fish and prawn farming industries, by the government from the Covid-19 fund.</p> |



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*Directive 16/2021 dated 12 October 2021 issued by the Central Bank of Myanmar on “**Permission to buy and sell Chinese Yuan and Japanese Yen**”*

As per this Directive, the Central Bank of Myanmar has now allowed licensed banks, non-bank financial institutions, and money changers to exchange Chinese Yuan and Japanese Yen.

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Employment and Pension

Decision No. 28/2021/QĐ-TTg dated 1 October 2021 by the Prime Minister on “Granting Support Policies Financed by the Unemployment Insurance (“UI”) Fund to Employees and Employers Affected by the COVID-19 Pandemic”

The documentation requirements and application procedures for employees participating in the UI fund to date are as follows:

- Social insurance agencies are to compile lists of employees participating in the UI fund up to now by using Template No. 01 (as provided in the annex of the decision) and then send them to employers. By 20 October 2021 at the latest, social insurance agencies should have completed this task and should also have made these lists of eligible employees accessible to the public on the provincial social insurance agencies’ websites.
- Within five business days of receipt of the lists from the social insurance agencies, employers are to announce the lists of employees eligible to receive support and make them accessible to their employees so that they can verify and change their information in case there are any mistakes.
- Employers will then compile lists of their employees with the correct and full required information and indicate those employees that have voluntarily refused to receive support by using Template No. 02 (as provided in the annex of the decision) and sending it to the social insurance agencies.
- If any change in an employee’s information is needed, employers should complete Template No. 03 (as provided in the annex of the decision), enclosing the legally required proof for the change to the social insurance agencies by 10 November 2021 at the latest.

Within 10 working days of receipt of the lists of employees with the full and correct information and within 20 days of receipt of the final lists from employers, social insurance agencies are to proceed to pay out the aid amounts. Payments made via bank accounts are preferred.

For any denial of financial aid, the social insurance agency should provide in writing the reason for such denial.

Decision No. 28/2021/QĐ-TTg entered into force on 1 October 2021.

Official Dispatch No. 3068/BHXH-CSXH dated 1 October 2021, by the Social Security of Vietnam providing “Guidance on Implementation of the Prime Minister’s Decision No. 28/2021/QĐ-TTg”

According to this document, employers, in conjunction with banks, are to help employees that do not have a personal bank account to get one to receive financial aid from the UI fund under the government’s Resolution No. 116/NQ-CP.



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The tiers of financial aid granted to employees under the UI fund are based on the amount of time contributions have been paid in, as follows:

- Less than 12 months: VND1,800,000 per person
- Between 12 months and less than 60 months: VND2,100,000 per person
- Between 60 months and less than 84 months: VND2,400,000 per person
- Between 84 months and less than 108 months: VND2,650,000 per person
- Between 108 months and less than 132 months: VND2,900,000 per person
- 132 months or more: VND3,300,000 per person

Directive No. 27/CT-TTg dated 3 October 2021 issued by the Prime Minister on “Recovery of Production Activities in Industrial Manufacturing Sectors in the Context of the Prevention and Control of COVID-19”

The Prime Minister requires the Ministry of Foreign Affairs to work in conjunction with the Ministry of Public Security and its relevant units to deal with any difficulties in allowing foreign experts and workers to enter and quarantine according to the regulations of the Ministry of Health.

In addition, the Prime Minister also requests the Ministry of Finance and the State Bank of Vietnam to review and promptly provide instructions about policies and regulations on tax exemptions and reductions, and undertake the task of introducing the mechanism for interest rate and credit support for businesses according to Resolution 105/NQ-CP dated 9 September 2021.

The Ministry of Health should promptly issue:

- Social distancing and testing requirements for production and business activities.
- Regulations on production conditions and actions to be taken in response to COVID-19 infections or clusters of infections among workers at industrial parks.

Regulations on methods to manage close contacts of COVID-19 patients for the ultimate safety of business and production activities.

Import and Export Policy

Official Dispatch No. 4539/TCHQ-TXNK dated 21 September 2021 issued by the General Department of Customs regarding “Management of VAT Refunds”

According to this document, tax departments of provinces and cities are requested to implement several measures to strengthen the management and control of tax declaration to combat fraudulent acts aimed at misappropriating VAT refunds.

For instance, using customs practices and approaches towards imports and exports, such as:

- Listing and managing export businesses submitting VAT refund claims according to risk management criteria. Closely checking and



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overseeing exports after the required export procedures are completed.

- Strengthening documentary or physical inspections during the completion of import procedures with the intention of lawfully detecting and imposing sanctions against any of the following suspicious activities:
- Falsely declaring or over-declaring export quantities; providing incorrect names and types of goods, abnormally over-declaring customs values of several exports of high value in export declarations;
- Using invalid documentation for the completion of export procedures.

Intensifying the inspection of the customs values of imports for use in investment projects that are granted import duty exemption and any suspicious act involving the over-declaration of customs values with the aim of misappropriating input VAT refunds from the domestic tax authorities.

Tax and Accounting

*Decision No. 29/2021/QĐ-TTg issued on 6 October 2021 issued by the Prime Minister regarding “**Preferential Treatment for Special Investments**”*

The decision prescribes the corporate income tax incentives for special investment projects.

For instance, a 7% preferential rate lasting for 33 years will be applied to income generated from investment projects falling into one of the following categories:

- Investment projects for innovation centers and research and development centers (including expansion thereof):

Having investment capital of at least VND3 trillion each and disbursing at least VND1 trillion within three years from the issuance date of the investment registration certificate or the investment proposal approval decision.

- Investment projects classified as those prescribed in point b of clause 2 of Article 20 of the Law on Investment and meeting one of the



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following four criteria:

- They are first-tier high technology projects; or
- Vietnamese enterprises participate in first-tier chains of these projects; or
- The value added accounts for more than 30% to 40% of the prime costs of the total finished products of the business entity; or
- They satisfy first-tier technology transfer requirements.

Decision No. 29/2021/QĐ-TTg entered into force on 6 October 2021.

Circular No. 78/2021/TT-BTC dated 17 September 2021 issued by the Government providing “Instructions on Implementation of Several Articles of the Law on Tax Administration and Decree No. 123/2020/ND-CP on Invoices and Evidentiary Documents”

From 1 July 2022, business households and individuals will have access to e-invoices as follows:

- Those paying taxes according to the tax declaration method are required to issue e-invoices.
- If those paying taxes according to the lump-sum tax payment method need to issue invoices, the tax authorities may provide them with e-invoices separately on an on-demand basis.
- If those declaring taxes as they arise need to issue invoices, the tax authorities may provide them with e-invoices separately on an on-demand basis.

There is an exception for the following cases, where paper invoices provided by the tax authorities may be used for a maximum period of 12 months as prescribed in clause 1 of Article 14 of Decree No. 123/2020/ND-CP:

- Those having no electronic transactions with the tax authorities; no IT infrastructure; no accounting software systems; and no e-invoicing software enabling the use of e-invoices and the transmission of e-invoice data to buyers and tax authorities.

This is a one-off maximum 12-month period and starts from:

- 1 July 2022 for business households or individuals that began carrying on business before 1 July 2022; or
- For business households and individuals that set up business from 1 July 2022, the date of registration for use of invoices.

Circular No. 78/2021/TT-BTC enters into force on 1 July 2022.

Circular No. 80/2021/TT-BTC dated 29 September 2021 issued by the Ministry of Finance providing “Instructions on Implementation of the Law on Tax Administration and Decree No. 126/2020/NĐ-CP, elaborating on Several Articles of the Law on Tax Administration”

This circular repeals a large number of circulars on tax administration from its effective date, which is 1 January 2022, including:

- Circular No. 156/2013/TT-BTC dated 6 November 2013 providing guidance on the Law on Tax Administration; the Law on Amendments to the Law on Tax Administration, and Decree No. 83/2013/NĐ-CP dated July 22, 2013



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- Circular No. 99/2016/TT-BTC dated 29 June 2016 providing guidance on the management of value added tax refunds
- Circular No. 31/2017/TT-BTC dated 18 April 2017 amending Circular No. 99/2016/TT-BTC providing guidance on the management of value added tax refunds
- Circular No. 208/2015/TT-BTC dated 28 December 2015 on the operations of the Tax Advisory Councils of communes or towns
- Circular No. 71/2010/TT-BTC dated 7 May 2010 providing guidance on tax assessments for automobile and motorbike traders that write the prices of automobiles and motorbikes on invoices issued to consumers lower than normal market prices
- Circular No. 06/2017/TT-BTC dated 20 January 2017 on amendments to clause 1 of Article 34a of Circular No. 156/2013/TT-BTC dated 6 November 2013
- Circular No. 79/2017/TT-BTC dated 1 August 2017 on amendments to b1 of b of clause 4 of Article 48 of Circular No. 156/2013/TT-BTC dated 6 November 2013

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