



Legal Concerns in Gift-giving to Civil Servants

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Nice to Know

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The last few decades have seen an increase in the implementation and forceful application of anti-corruption laws worldwide. Due to Western authorities' extensive powers regarding anti-corruption issues, foreign-based companies are requiring their subsidiaries in Asia to control gift-giving expenses, especially since efforts to respect the customs of giving gifts to officials (including hosting dinners or banquets) may constitute bribery according to international and even local anti-corruption laws.

The Thai Organic on Counter Corruption B.E. 2542 (1999), as amended by No. 2 B.E. 2550 (2007), places the public sector at the center of the phenomenon of corruption. The Act addresses two aspects of corruption: "active" and

"passive" corruptions, which in this context respectively means the offering of a bribe (the supply side), and the action of receiving a bribe (the demand side).

However, offering gifts to civil servants or officials is a long-standing custom in Thailand and is regarded as a social and business norm. The importance of gift-giving ranks quite highly in Thailand when compared to other Asian countries. While in many instances the giving of a gift is almost expected, gifts given as part of business etiquette are, in general, quite modest. Even though various regulations have been implemented in order to deal with the payment of bribes and other incentives, it is clear that Thai law in this area is most concerned with clamping down on inappropriate gifts or payment, namely those with the purpose of inducing an official to commit illegal acts.

The Notification of the National Counter Corruption Commission Concerning the Provisions of the Acceptance of Property or Any Other Benefit on Ethical Basis by State Officials B.E. 2543 (2000) authorizes gifts to government officials if such gift is limited to THB 3,000 (approximately USD 93) for each person and on each occasion. The same rules apply to entertainment expenses, including dinners and banquets.

In conclusion, gift-giving below a certain limit is authorized under Thai laws, but any transfer of cash directly to civil servants should be avoided due to the risk that the anti-corruption regimes in other countries may view such transaction as a bribe.