

# COVID-19: Thailand Eases Provident Fund Requirements and Prohibits Strikes and Lockouts

In the latest of a suite of measures designed to help employers and employees weather the COVID-19 crisis, the Thai government has published legislation allowing the temporary cessation of provident fund contributions for employers and employees in crisis and preventing the use of strikes or lockouts in employment disputes while the government's emergency decree is in force.

## Provident Fund Measures

On May 5, 2020, the Announcement on Designation of Types of Business, Duration, and Conditions for Employees or Employers to Cease or Postpone the Submission of Savings or Contributions to the Provident Fund in Areas Affected by Economic Crisis, Disaster, or Other Severe Events Affecting Economic Conditions was published by the Ministry of Finance in the Government Gazette.

This announcement exempts both employers and employees from their duties to submit contributions to the provident fund between May 5 and December 31, 2020, subject to certain criteria and their agreement to make use of the exemption under the announcement. The provident fund membership status of employers and employees who avail themselves of these measures will not be affected.

In order to make use of the exemption under the announcement, employers will have to certify that they meet the following conditions:

- The business is facing an operational crisis because of the COVID-19 pandemic; and,
- The business is facing a financial crisis.

The exemption also requires a resolution of approval from either:

- A resolution by a general meeting of the provident fund members, held in accordance with the fund's regulations, resolved in accordance with the regulations for counting votes in general meetings or by at least half of the meeting attendees if the fund regulations are silent on vote counting; or,
- A unanimous vote from all members of the fund committee if the meeting cannot be held for any reason.

In addition, if the provident fund is a pooled fund consisting of more than one employer, resolutions must be obtained from meetings of the members of each employer, or from the fund committee of each employer.

The employer or the fund committee must notify the registrar that they have resolved to make use of the exemption, attaching the following documents:

- A certification, signed by the employer's directors, certifying that the business is facing operational difficulties because of the COVID-19 pandemic, and is thus facing a financial crisis; and,
- The meeting report for the resolution with details of the acknowledgement of the employer's situation and details of the resolution to use the exemption (showing the decision on whether to cease or postpone contributions, and the decision on the duration of the cessation or postponement).

The employees and employer can resume their contributions to the provident fund before the end of the agreed period by jointly agreeing and notifying the registrar. In addition, during the temporary cessation or postponement of contributions by employers, employees can still submit their contributions to the provident funds. The employer has full discretion over whether to submit employer contributions in that circumstance.

### **Strikes and Lockouts**

In addition, on May 8, 2020, the Announcement on Determination of Unsettled Disputes to be Resolved by Labor Relations Committee and Forbidding Lock Outs or Strikes during the Announcement of Emergency Situation under the Law Regarding Public Administration in Emergency Situations, issued by the Labor Ministry, was published in the Government Gazette.

This announcement prohibits employees and employers from using strike or lockout measures under the Labor Relations Act B.E. 2518 (1975) during the emergency situation period announced under the Emergency Decree, currently set to expire on May 31, 2020 (subject to extension). The announcement also states that any strike or lockout that commenced before May 8, 2020, must end, and that all employees must return to work or employers must reinstate the employees. Any unsettled disputes under the Labor Relations Act that occurred during the emergency situation period must now be considered and resolved by the Labor Relations Committee.

For more information on employment matters during the COVID-19 crisis, or any aspect of Thai employment law, please contact Chusert Supasitthumrong on [chusert.s@tilleke.com](mailto:chusert.s@tilleke.com).

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### **Our Commitment to Continuous Client Service**

During the COVID-19 outbreak, we are focused on maintaining high-quality client services while ensuring the safety and wellbeing of our team. Over the past several weeks, Tilleke & Gibbins has implemented our Business Continuity Plan across our offices in Cambodia, Indonesia, Laos, Myanmar, Thailand, and Vietnam. The vast majority of our team members are now working remotely, and based on our robust technology infrastructure, we are providing our full range of services as usual. We are now carrying out all client meetings through the use of technology, and, as many of you will have already experienced, this is proving to be a highly effective solution. By implementing a range of technology and agile working measures, we will ensure that you continue to receive the highest quality services with the fastest possible response times from our team. We know that you are facing complex business challenges during this crisis, and we have put together a bank of practical resources tracking the legal developments in the region as they happen—[you can access them all at this link](#). In addition, we want to assure you that our team will be continuously available to help you navigate these issues across Southeast Asia. If you have any queries about these measures, please contact your usual client service partner, or email [communications@tilleke.com](mailto:communications@tilleke.com).

Stay well, safe, and healthy.