

INTERNATIONAL BUSINESS

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“Auren International Business” is a quarterly publication comprised of contributions from colleagues around the world. The newsletter includes country-focused articles, international tax cases, and technical updates on various topics that impact businesses. The experts at Auren possess the knowledge and experience to assist you on your journey, and this issue can serve as the starting point for your inquiries.

Some of the features of this edition include:

Insights from Spain on how the CBAM framework is driving sustainability and competitiveness in the industrial sector, an overview from Paraguay on why it has become one of the most attractive destinations for investors in Latin America, and an in-depth exploration from Thailand addressing the legal considerations for employment termination.

We hope you find the contents of this newsletter useful and informative. Happy reading!

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Challenges for open banking in Colombia

In Colombia, Open banking offers significant potential for financial innovation, but faces several challenges due to the country's regulatory framework. Open banking allows users to share their financial data securely with third-party providers, enabling more personalized and accessible financial services. Globally, open banking is transforming financial ecosystems, with services like digital wallets, cross-border payments, and investment platforms leading the way. However, Colombia's financial system is heavily regulated by the Central Bank (Banco de la República - CCB), with strict controls on foreign exchange and limited recognition of digital assets, which creates barriers for fintech and consumers.

One of the primary challenges is limited banking access, especially for industries such as digital assets, cannabis, and international transactions, leading many users to rely on informal or black-market alternatives. This reliance exposes individuals and businesses to significant risks, including financial crime, tax evasion, and non-compliant practices. The lack of regulatory flexibility around digital currencies and foreign exchange further stifles innovation in the fintech sector.

Despite these obstacles, there are alternative solutions in use, such as third-party intermediaries for currency conversion and informal money swaps. However, these come with their own legal and compliance risks.

To overcome these challenges, Colombia needs to update its regulatory framework, particularly by incorporating digital assets into legal payment systems and improving compliance mechanisms. Strengthening collaboration between regulators, banks, and fintech is crucial, along with increasing financial literacy among users to ensure compliance. By introducing open APIs, regulatory sandboxes, and fostering an innovation-driven ecosystem, Colombia can position itself as a regional leader in open banking, driving financial inclusion and economic growth.

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Egypt's finance minister unveils tax relief package

Egypt's Finance Minister, Ahmed Kouchouk has announced a new tax relief package aimed at streamlining the tax system and fostering greater trust and collaboration with the business community.

This aims for "new chapter" with businesses.

Kouchouk outlined the key elements of the package during the first of a series of meetings with representatives of the commercial and industrial sectors. He disclosed the strategy within a meeting with the Federation of Egyptian Chambers of Commerce and the Federation of Egyptian Industries in October 2024.

The strategy aims to extend the hand of trust, partnership, and support with practical and simplified solutions that provide comprehensive solutions to tax challenges, contribute to improving tax services, and simplify and unify transactions in all areas and tax offices.

The strategy covers in a nutshell the following areas:

- Placing an easy procedure for resolving accumulated tax disputes to drive economic activity."
- provisions that ensure late payment fees and additional tax do not exceed the original tax amount, providing relief for taxpayers.
- The government will expand the scope of sample audits to include all compliant taxpayers with clear and specific criteria across all tax centers, regions, and offices.

- The government will also simplify tax procedures and declarations to save taxpayers time and effort, leveraging available electronic systems to enhance ease for the tax community.
- Taxpayers will be allowed to submit or amend tax returns for the period from 2020 to 2023 without penalties, establishing a principle of trust with taxpayers.
- Paying efforts to support business liquidity through a centralized settlement mechanism and expedite and simplify VAT refund procedures. The central clearing system will allow financiers to settle debts with the government electronically.
- Placing a simplified and integrated tax system for small taxpayers, freelancers, and professionals with an annual turnover of up to EGP 15m. "Register and receive incentives and facilities. Don't be afraid. We will open a new chapter based on trust and support," Kouchouk assured small taxpayers.
- The government will also develop a pre-clearance system to assist taxpayers in planning their projects and accurately understanding future tax obligations.

The strategy emphasizes the government's commitment to improving tax performance, stating that an independent party will be engaged to evaluate the implementation of the tax relief package in cooperation with the business community.

Kouchouk emphasized that relief package reflects a clear understanding of the challenges, demonstrating flexibility in assessing the situation and addressing the issue at its root. They expressed their hope for swift implementation of the package to contribute effectively to improving the quality of tax services.

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Financing Opportunities for International Start-ups in China and Germany

China and Germany provide appealing environments for international start-ups, yet they differ significantly in their support policies and market structures.

1. PUBLIC FUNDING PROGRAMS

Both countries have state-sponsored funding programs that focus on different areas:

- **Germany:** Programs like EXIST and loans from KfW primarily support technology-driven and research-based start-ups, often originating from universities. The European Union also offers additional funding programs aimed at future-oriented projects.
(<https://www.exist.de/EXIST/Navigation/DE/Home/home.html>) 🖱️
- **China:** High-tech and environmental technology start-ups benefit from talent development programs or tax incentives in innovation centers such as Shenzhen and Beijing.

2. VENTURE CAPITAL AND INVESTORS

Venture capital plays a significant role in both countries, though the markets have distinct focuses:

- **Germany:** Investors tend to favor FinTech, SaaS, and other tech-oriented start-ups. A vibrant angel investor scene offers not only capital but also valuable connections for international founders.

- **China:** The venture capital market is particularly active in sectors like artificial intelligence, biotechnology, and e-commerce. Foreign start-ups often collaborate with local partners to secure funding and access crucial networks.

3. BANK LOANS AND CREDIT

Bank loans are accessible for international start-ups in both countries, albeit under different conditions:

- **Germany:** Entrepreneurs benefit from low-interest loans, such as those provided by KfW, which particularly support tech-focused start-ups with strong business plans.
(<https://www.kfw.de/inlandsfoerderung/Unternehmen>) 🖱️
- **China:** Securing loans can be more challenging, as a local credit history is often required. However, the China Development Bank offers favorable loans to innovative, technology-oriented companies.
(https://www.cdb.com.cn/cpfw/zxqyjgrkh/dkrz_423/201602/t20160219_2610.html) 🖱️

4. CROWDFUNDING

Crowdfunding is well-established in both markets, though with different emphases:

- **Germany:** Platforms like Seedmatch and Comapanisto enable start-ups to raise capital

through public backing, particularly for sustainable and impact-driven projects.

(<https://www.seedmatch.de/>) 🖱️

- **China:** Platforms such as Taobao Crowdfunding provide significant reach, especially when integrated with e-commerce platforms. Successful campaigns often require a localized strategy to resonate with the local audience.
(<https://izhong-chou.taobao.com/?pid=mm252829113455987122436732>) 🖱️

5. NETWORKING AND PARTNERSHIPS

Building connections and partnerships is essential for success:

- **Germany:** Events like Bits & Pretzels and Startupnight facilitate access to investors and industry experts, fostering valuable relationships.
(<https://www.bitsandpretzels.com/>) 🖱️
- **China:** Joint ventures and partnerships with local companies are often crucial. Events like Startup Grind China offer important networking opportunities and exposure to influential market players.

6. LEGAL FRAMEWORKS

Legal requirements vary significantly between the two countries:

- **Germany:** Compliance with regulations related to taxation, labor laws, and data protection (DSGVO) is mandatory, making legal consultation advisable.
- **China:** Foreign companies often need a local partner for certain business structures and must adhere to stringent data protection laws. Collaborating with legal experts is highly recommended to navigate these complexities.

CONCLUSION

Both China and Germany offer attractive financing options for international start-ups. Germany boasts stable support programs and robust legal protection, while China presents a dynamic market with rapid growth potential. Successful companies leverage local networks and adapt to each market's unique requirements.

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2025 Will Be Brutal for CEOs Who Don't Innovate—Here's What to Do

As we enter 2025, it is essential to understand that innovation is no longer just a slogan; it is a fundamental business tool. In an era of rapid change, organizations that lack a commitment to innovation are finding themselves left behind. Companies and nations worldwide are recognizing that long-term survival and growth depend on integrating innovation as a key part of their strategy.

Innovation as a Defined Organizational Objective

Innovation must be more than a vision; it should be a structured and measurable goal. Each organization should set clear targets and establish dedicated teams to advance this area. Innovation-focused teams bring fresh perspectives, identify technological opportunities, and ensure that every level of the organization adapts to changing needs.

The CEO's Role in Leading Innovation

Today, the CEO's role extends beyond traditional management; they are the primary champion of innovation within the organization. While other leaders and team members contribute, the CEO is ultimately responsible for setting a vision of continuous advancement. CEOs should be at the forefront, promoting a culture where innovation is more than just an initiative; it is a guiding principle for the company's future.

Dedicated Departments and Projects: The Backbone of Sustainable Innovation

Organizations should establish dedicated innovation departments or assign specialized teams to drive this area. These departments can develop new technologies, promote collaborations, and identify opportunities for improvement, ensuring innovation permeates every facet of the business.

Technology as a Foundation for Growth and Success

Technological advancement reshapes industries worldwide. Organizations that adopt advanced tools—such as artificial intelligence, machine learning, and automation—secure a competitive edge. Implementing these technologies strengthens internal capabilities and builds resilience in today's volatile market.

Mergers and Acquisitions: Access to New Markets

Innovation also finds expression in strategic mergers and acquisitions, which provide access to new knowledge bases and markets. Companies that recognize the potential in such mergers can expand their reach and strengthen their influence in times of crisis.

Learning from Israel's Innovation Model

A notable example of innovation-led growth is Israel, often dubbed the "Startup Nation." With a high concentration of startups and advanced research in areas like cybersecurity, digital health, and artificial intelligence, Israel exemplifies how a small country can drive global impact through innovation. The Israeli model underscores that investing in cutting-edge technology and cultivating a resilient, forward-thinking workforce can serve as a strong foundation for any organization aiming to lead and compete on the world stage.

2025 is the time to make innovation central to all operations, securing growth and dynamically adapting to the ever-evolving economic and technological landscape.

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DDL Space: first Italian law on space economy approved

The Council of Ministers has approved the first Italian "framework law" on space and the space economy, on the proposal of the Minister for Enterprise and Made in Italy, who is in charge of space policy. The law places Italy at the forefront of major global players and anticipates the European Union's intentions for a regulation of the sector.

The law covers several areas: the rules for the exercise of space activities by operators, the registration of space objects, the responsibilities of space operators and the State and measures for the space economy.

Among the most important changes, the "framework law" requires authorisation for foreign operators wishing to carry out space activities from Italian territory, as well as for domestic operators operating from foreign territory. The ASI, the Italian Space Agency, will be in charge of supervising the operators: if they violate the provisions of the law or their commitments, the licence will be revoked.

The Agency will also be responsible for the registration of objects launched into space from Italy in the National Register.

The DDL also provides for the development, within at least five years, of a National Plan for the Space Economy which should include: the analysis, evaluation and quantification of the needs of the sector in order to identify the investments to be financed by public funds and private contributions.

Title IV of the DDL regulates the liability regime applicable to space operators, which takes the form of a strict liability of the operator, regardless of the existence of profiles of fault or malice.

Space operators are always liable for damage caused to third parties on the earth's surface, to aircraft in flight and to persons and property on board. Liability is excluded only if the operator proves that the damage was caused solely and maliciously by a third party not connected with the space operation and that the third party's act could not have been prevented. Subsidiary liability of the State for damage not compensated by the operator is also regulated, with the provision that the State must be a party to proceedings for compensation for damage resulting from space activities. To this end, the bill stipulates that licensed operators must take out insurance policies to cover damages resulting from space activities, with a ceiling of 100 million euros per claim.

Ultimately, this is a discipline that takes into account the inherently dangerous nature of space activities and the need for the State to perform the dual function of controlling them and ensuring their safety for any third party harmed by them.

Finally, in order to facilitate the access of SMEs and start-ups to public contracts, special rules are foreseen for the procurement and promotion of space activities and technologies.

With the adoption of the DDL on the space economy, Italy confirms its role in the aerospace sector. In December 2022, at the meeting of the Council of the European Space Agency, our country had allocated 3.1 billion euros, placing it in first place for programmes considered optional because they concern only some countries, and in second place - together with France and only behind Germany - for programmes that concern all member countries and are considered mandatory (such as the long-term scientific missions of Cosmic Vision or Copernicus, aimed at studying and mitigating climate change).

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Did you know that Paraguay is one of the most attractive destinations for investors in Latin America?

In Paraguay, pre-established companies allow investors to start operations immediately, avoiding the lengthy process of creating a new company, which can take several months. This is ideal for those looking to quickly capitalize on business opportunities in the country.

Paraguay is known for its favorable tax regime, featuring competitive tax rates and exemptions in strategic sectors. Investors who acquire a pre-established company can take advantage of this fiscal framework right away, optimizing their tax benefits from the start of their activities.

Pre-established companies can be adapted to meet the investor's goals, whether by changing the business purpose, company name, or corporate structure. This flexibility allows the company to be tailored to the investor's needs without the need to go through a foundational process from scratch.

Establishing a new company involves administrative and legal costs that can be significant, but acquiring a pre-established company often reduces these initial costs considerably, as it is already registered and compliant with formalization requirements.

Paraguay offers incentives in specific sectors, such as the maquila industry, which allows for the production

of goods at low costs and exportation without paying income taxes or tariffs. These advantages are more easily accessible through an already established company.

Save yourself months of paperwork and start operating now.

Ready to invest in Paraguay?

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The Future of the Tax Function with Generative AI

Generative AI (GenAI) has made a powerful entry into the business world, especially in areas like finance and tax, where its ability to automate repetitive tasks and process large datasets makes it a strategic resource. In the tax field, GenAI optimizes operations, reduces errors, and allows tax teams to focus on high-value analysis and planning. Additionally, GenAI supports decision-making by generating predictive scenarios and aiding compliance in various jurisdictions. By reducing costs through automated processes, GenAI enables companies to allocate resources to strategic activities. This translates into a more agile and accurate tax function, capable of responding effectively to a constantly changing regulatory landscape.

Tax Processes Benefiting from GenAI

The tax function encompasses various activities that gain significant advantages from GenAI's automation capabilities. Key processes benefitting include:

- **Compliance Automation:** GenAI accelerates tasks such as report generation, data entry, and document classification, significantly improving speed and accuracy. For instance, in tax return preparation, GenAI can organize, analyze, and pre-fill forms with relevant data, creating drafts for review. This automation reduces human error and enables tax teams to focus more on strategic compliance issues rather than data input.
- **Tax Planning and Scenario Analysis:** GenAI's predictive analysis allows tax departments to

explore multiple tax strategies and assess the potential impacts of regulatory or market shifts. For example, GenAI can simulate various tax outcomes, enabling teams to choose the most tax-efficient approach. This helps leaders make well-informed decisions quickly, particularly in complex scenarios where multiple jurisdictions are involved.

- **Regulatory Monitoring:** In a globalized business environment, GenAI can track regulatory changes across jurisdictions, providing real-time updates to ensure that companies stay compliant. For example, GenAI can alert tax teams about shifts in tax law, enabling them to adjust compliance strategies and avoid penalties. This not only keeps the organization compliant but also enhances its reputation by demonstrating proactive adherence to regulations.
- **Due Diligence:** In transactions such as mergers and acquisitions (M&A), GenAI enhances efficiency in analyzing large volumes of financial and legal documents to identify potential tax and compliance risks. For instance, GenAI can review contracts and tax records to flag any compliance issues before a transaction is finalized, enabling a thorough risk assessment and ensuring informed decision-making in complex deals.
- **Support for Compliance Audits:** GenAI plays a vital role in assisting with tax compliance audits by verifying data accuracy, identifying discrepancies,

and retrieving documents quickly. For example, during an audit, GenAI can rapidly cross-check data points, reducing audit time and minimizing the risk of oversight. This efficiency helps tax teams respond promptly to audit requirements while maintaining high standards of accuracy.

- **Tax Credit and Deduction Strategy Optimization:** GenAI can analyze historical and real-time data to identify potential tax credits and deductions that companies may qualify for. For instance, by scanning through vast amounts of financial records, GenAI can highlight unused tax credits, enabling companies to optimize their tax liabilities. This strategic use of GenAI helps organizations maximize savings and improve fiscal performance.
- **Management of Internal Tax Inquiries:** GenAI's ability to answer common tax questions and organize documentation enhances workflow and communication within tax teams. For example, if a team member from another department needs information on a tax rule, GenAI can quickly provide a reliable answer or retrieve the necessary documents. This responsiveness not only improves efficiency but also reduces the time spent on internal tax inquiries.

Risks and Limitations of Using GenAI in Tax Functions

Despite its advantages, implementing GenAI in tax functions presents significant challenges that require a careful approach to manage. Key risks include:

- **Reliability and Human Oversight:** GenAI may produce incorrect or irrelevant responses, often referred to as “hallucinations.” In critical tax functions, these errors can have serious repercussions. Maintaining human oversight is essential to validate GenAI outputs, ensuring that all data meets high standards of accuracy and compliance.
- **Bias in AI:** GenAI models are trained on large datasets, and any biases present in the data can influence outcomes. This risk means that tax decisions may unintentionally reflect skewed information. Establishing strong AI governance is crucial to detect and limit biases, preserving ethical and fair practices.
- **Data Privacy:** Implementing GenAI in tax functions requires handling sensitive financial information, raising concerns about data privacy and compliance with regulations like the EU’s GDPR. Companies must implement rigorous data governance frameworks to ensure all information remains secure and adheres to global privacy standards, minimizing risks of data breaches.
- **Shortage of Specialized Talent:** The successful adoption of GenAI in tax requires a workforce with advanced skills in AI and data analytics. Many organizations, however, struggle to find

and retain such talent. Training and development programs are essential to ensure that teams are fully equipped to utilize GenAI effectively.

Generative AI has the potential to significantly transform tax functions by improving efficiency, enhancing compliance accuracy, and enabling agile strategic decision-making. However, successful implementation requires a balanced approach that weighs the benefits against the inherent risks. With well-managed oversight and governance, tax teams can integrate GenAI to optimize operations and position the tax function as a strategic driver of value within the organization.

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Remote work and the risk of creating a taxable permanent establishment

Do you hire an employee who works remotely from Poland and the registered office or the management board of your enterprise is located in another country? If so, here's what you need to know!

In one of the most recent individual interpretations (number 0114-KDIP2-1.4010.364.2024.2.MW of 4 September 2024), the Director of National Tax Information [Dyrektor Krajowej Informacji Skarbowej] decided whether a company with its registered office in Germany has a permanent establishment in Poland due to the employment of an employee performing remote work from Poland. In the present case, the Authority held that remote work performed by an employee from Poland is indeed regular and permanent, and in addition held that by creating e.g., computer software for the company, the employee performs activities that fall within the basic scope of the employer's activity. Consequently, according to the Authority, a permanent establishment of the company in Poland was created.

Importantly, for a permanent establishment to be created it is not necessary for an enterprise to have a formal right of disposal of such a fixed place of business, and thus such a fixed place of business may be the apartment of an employee from which the employee performs remote work.

However, this does not mean that hiring an employee performing work within the home office will always lead to the creation of a permanent establishment. Each time, the scope of activities performed by the employee should be carefully analysed.

What might the creation of a permanent establishment entail? One of the key consequences is the need to properly assign revenues and costs to a permanent establishment, and then to pay income tax in the event of generating a profit in Poland.

If you have doubts whether there is a risk related to your enterprise having a permanent establishment on the territory of Poland, contact us. TIAS tax advisors will be happy to support you in this area.

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Carbon credit market regulations in Portugal

The Voluntary Carbon Market (VCM) is an instrument to support compliance with national climate action objectives, accelerating the transition to a carbon-neutral society and reinforcing the commitment to the “Sustainable Development Goals”. The VCM's main objective is to encourage and promote greater resilience in the national territory, through a system of buying and selling carbon credits that generates economic incentives to leverage the implementation of projects to reduce greenhouse gas emissions or carbon sequestration.

The two types of project covered by the VCM may vary within the category of GHG emission reduction or carbon sequestration, and any type of project is eligible, provided that there is an approved carbon methodology for that type and the project complies with the various principles and rules defined therein, whether in the context of industry, transport, energy, buildings, waste, agriculture or forestry. Emissions reduction projects aim to reduce the amount of GHG emissions released into the atmosphere, which can be achieved by adopting new practices, technologies or processes. Carbon sequestration projects aim to sequester carbon from the atmosphere and store it biologically, geologically or technologically (examples of natural-based sequestration systems are forests, soils or marine ecosystems). Carbon projects are subject to an initial validation process and a periodic verification process by a suitably qualified independent verifier.

In order to make the Voluntary Carbon Market operational, Portugal has published 3 ordinances necessary for its regulation, launched a dedicated information portal (see [platform](#) 🖱️) and opened a call for expressions of interest in projects and investments. These ordinances aim to regulate the following aspects:

- Portaria n.º 239/2024/1, of October 2, sets the amounts of the fees to be charged under the Voluntary Carbon Market by the supervisory entities and the registration platform manager;
- Portaria n.º 240/2024/1, of October 2, defines the qualification criteria for the exercise of the activity of independent verifier of greenhouse gas emissions mitigation projects and identifies the entity managing the qualification system within the scope of the Voluntary Carbon Market;
- Portaria n.º 241/2024/1, of October 2, establishes the general requirements of the electronic registration platform for the Voluntary Carbon Market.



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CBAM: A Pathway for Spain's Industry to Embrace Sustainability and Stay Competitive

As the climate crisis intensifies, Europe is leading with policies that align environmental sustainability with economic action. One essential part of this effort is the Carbon Border Adjustment Mechanism (CBAM), which came into effect in October 2023. CBAM requires imported products to meet the European Union's (EU) carbon standards, establishing a level playing field for carbon-intensive industries like cement, aluminum, steel, fertilizers, electricity, and hydrogen. For Spanish companies importing goods in these sectors, adapting to CBAM will be essential as Europe advances toward its goal of climate neutrality by 2050.

CBAM is part of the broader "Fit for 55" package, a set of measures aimed at reducing greenhouse gas (GHG) emissions by 55% across EU member states by 2030, compared to 1990 levels. One of the primary goals of CBAM is to discourage companies from relocating production to regions with less stringent environmental regulations, which would undermine the EU's global emissions reduction efforts. By imposing a carbon cost on products from outside the EU, CBAM incentivizes investment in sustainable practices and ensures that both importers and EU-based producers bear comparable costs for their emissions.

To enable a smooth transition, CBAM will be implemented in two phases. During the current transitional phase, lasting until the end of 2025, importing companies must report quarterly on the

carbon emissions of imported goods. This initial period allows businesses to become familiar with reporting requirements and work closely with their non-EU suppliers to collect the necessary data. This adjustment period is particularly valuable for companies with limited experience in carbon accounting, giving them time and support to adapt to the new framework.

In 2026, CBAM will enter its definitive phase, requiring companies to purchase CBAM certificates that mirror the price of the EU's Emissions Trading System (EU ETS). These certificates will have costs based on the average EU ETS auction prices and will be calculated according to the CO₂ emissions embedded in the imported products. This means that Spanish companies will need to consider the financial impact of CBAM certificates on their operations, as the CBAM replicates the EU ETS framework, eliminating cost advantages between imported goods and those produced within the EU.

As CBAM becomes fully integrated, the EU will also gradually phase out free emission allowances under the EU ETS for CBAM-covered sectors, aiming for their complete elimination by 2034. This reduction poses both challenges and opportunities for Spanish businesses, as it encourages companies to decarbonize their operations. This strategic shift could enhance their competitiveness in a market that increasingly prioritizes sustainability.

Nonetheless, CBAM requirements present significant challenges, particularly during the adaptation phase. While some Spanish companies have started collecting emissions data from their suppliers, others face obstacles in securing accurate information and managing the logistics of reporting. These challenges include the lack of reporting systems in some non-EU countries, communication barriers due to intermediaries, and resistance from certain suppliers to disclose emissions data.

Looking ahead to the definitive phase, some uncertainties remain. Although it is clear that importers will be required to purchase CBAM certificates, specific methods for calculating emissions and verification systems are still under development. However, the EU aims to establish a transparent and equitable system to facilitate an orderly transition to a low-carbon economy.

For Spanish companies, understanding and adapting to CBAM is not merely about regulatory compliance but also an opportunity to stand out in sustainability, enhance competitiveness, and actively contribute to a cleaner future.

Climate change team
Spain



Labor: Legal Consideration for Employment Termination

Disclaimer:

This article provides a general legal framework for employment termination in Thailand. It is important to note that specific industries, professions, or situations may be subject to additional or different regulations. If a matter in question is governed by specific legislations, those particular laws and regulations must be considered in addition to the general principles outlined here.

Introduction:

Employment termination is a critical aspect of workforce management that requires careful consideration of legal and ethical factors. In Thailand, the Labor Protection Act B.E. 2541 (1998) provides the primary framework for lawful employment termination, balancing the rights of employers and employees. This article explores the key aspects of employment termination under Thai labor law, focusing on contract types, compensation requirements, and legal protections for both parties.

Types of Employment Contracts and Termination Procedures:

The Labor Protection Act B.E. 2541 (1998) recognizes two primary types of employment agreements:

1. Fixed-Term Contracts

- Termination occurs automatically upon contract expiration.



- Early termination by the employer requires written notice.
- Premature termination without cause may result in a breach of contract penalties.

2. Non-Fixed Term Contracts

- Termination requires written notice prior to or on the wage payment date and will be effective on the following payment date.
- Notice period should not exceed three months unless specified otherwise in the contract.

For both contract types, failure to provide proper notice obliges the employer to pay compensation in

lieu of notice and salary until the effective termination date. Additional contractual obligations, such as repatriation expenses, must also be honored.

Compensation for Termination Without Cause:

When an employer terminates an employee without the employee committing any offense specified by law or contract, the Labor Protection Act B.E. 2541 (1998) mandates severance pay. The amount is calculated mainly on the employee's length of service

In cases of contract breach before expiration without the employee's fault, employers must pay damages. Failure to provide advance notice also requires compensation in lieu of notice.

Exceptions to Severance Pay Requirements:

The law provides exceptions where employers are not required to be responsible for severance pay, including:

1. Employee dishonesty or intentional criminal offenses
2. Intentional damage to the employer
3. Gross negligence causing serious harm to the employer
4. Violation of work regulations or orders
5. Abandonment of duties for three consecutive days
6. Imprisonment due to a court judgment

Even in these cases, employers must provide written termination notice and pay the salary up to the last working day.

Unfair Dismissal and Legal Recourse:

Employers should be cautious of unfair dismissal claims, even when severance pay is made. The Labor Court has the authority to:

1. Order continued employment at the pre-termination wage rate
2. Mandate compensation if continued employment is untenable

Unfair dismissal may be found in cases such as work-related accidents or discriminatory practices, even if the employee's actions initially appeared to justify termination.

Employer Obligations and Best Practices:

To mitigate risks associated with employment termination, employers should:

1. Adhere strictly to legal procedures for layoffs and terminations.
2. Provide written notice of termination as required by law.
3. Pay all required compensation, including severance pay if applicable.
4. Obtain signed acknowledgment from the employee upon payment.
5. Meet all payment deadlines to avoid additional penalties, surcharges and interest.
6. Maintain comprehensive documentation of the termination process.
7. Review and update employment contracts and work rules and regulations regularly.
8. Conduct thorough investigations before terminating for cause.
9. Consider alternatives to termination when appropriate.
10. Seek legal counsel in complex cases or when unsure of obligations.

Conclusion:

Navigating employment termination in Thailand requires a thorough understanding of legal

requirements and potential pitfalls. While this article provides an overview of the general legal framework, it is crucial to recognize that specific industries or situations may have additional requirements. By following the guidelines outlined in the Labor Protection Act B.E. 2541 (1998), considering any applicable specific legislation, and maintaining fair, transparent practices, employers can manage workforce changes effectively while minimizing legal risks and preserving their reputation as fair and responsible entities in the labor market.

For any specific termination cases, especially those in industries with specialized regulations, it is advisable to consult with legal experts to ensure full compliance with all applicable laws and regulations.

Key Takeaways:

1. **Legal Framework:** The Labor Protection Act B.E. 2541 (1998) is the primary legislation governing employment termination in Thailand, but specific industries may have additional regulations.
2. **Contract Types:** Thai law recognizes two main types of employment contracts – fixed-term and non-fixed term – each with distinct termination procedures.
3. **Notice Requirements:** Proper notice must be given for termination, or payment in lieu of notice is required.
4. **Severance Pay:** Employers must pay severance for termination without cause, with the amount based on the employee's length of service.

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5. **Exceptions to Severance Pay:** Certain employee misconduct (e.g., dishonesty and intentional damage) may exempt employers from severance pay obligations, but proper documentation is crucial.
 6. **Unfair Dismissal:** Even when severance pay is made, employers should be wary of unfair dismissal claims, which can result in additional penalties or reinstatement orders.
 7. **Documentation:** Maintaining comprehensive records of the termination process is essential for legal compliance and protection against disputes.
 8. **Specific Legislation:** Some industries or professions may be subject to additional or different regulations beyond the general labor law.
 9. **Best Practices:** Employers should follow a clear termination process, including written notice, proper payment, and obtaining employee acknowledgment.



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AD Ports Group: Pioneering Economic Diversification in the UAE

A recent report by Oxford Economics highlights AD Ports Group's significant impact on the UAE's economic diversification, especially in Abu Dhabi. Known for its expertise in trade, logistics, and industrial support, AD Ports Group is steering the nation away from an oil-dependent economy toward a diversified, multi-sector model. The report for 2022 underlines the group's substantial contributions to GDP, job creation, and international market expansion, establishing it as a crucial component of the UAE's economic strategy.

AD Ports Group has become a cornerstone of Abu Dhabi's non-oil economy, contributing 22.9% of its non-oil GDP, amounting to AED 132.7 billion. Nationally, the group accounts for 11.6% of the UAE's non-oil GDP, translating to AED 150.6 billion. These figures underscore AD Ports Group's critical role in bolstering both regional and national economies through its Economic Cities and Free Zones Cluster (EC&FZ). This cluster spans various sectors, showcasing the group's substantial footprint in trade, logistics, and industry, aligning with the UAE's broader goals of economic diversification.

Post-COVID-19, AD Ports Group emerged as a key driver in accelerating non-oil sector recovery. Between 2020 and 2022, its contribution to Abu Dhabi's non-oil GDP rose from 21% to 22.9%, reflecting its strategic importance in the national economy. Through diversified investments, AD Ports Group has strengthened trade, facilitated industrial

growth, and extended its operations globally. These efforts have not only reinforced the group's market position but also fostered economic resilience in the UAE.

AD Ports Group's extensive international ecosystem spans over 50 countries across the Middle East, North Africa, the Indian subcontinent, Central and Southeast Asia, and Europe. This global reach positions the UAE as a competitive player in emerging markets while supporting its goal of reducing oil dependency. The group's operations—ports, free zones, maritime, and logistics services—build multiple income streams that stabilize its business and increase resilience, thus benefiting the UAE economy overall.

The Economic Cities and Free Zones Cluster (EC&FZ) drives AD Ports Group's economic contributions, with this sector accounting for 95% of its non-oil economic impact in Abu Dhabi. This cluster includes more than 2,000 businesses spanning sectors like manufacturing, construction, and technology. A highlight is the KEZAD Group, the Middle East's largest economic zones ecosystem, which promotes innovation and industrial growth. Through streamlined trade and incentives, KEZAD attracts businesses and encourages economic development across diverse industries, reinforcing Abu Dhabi's industrial sector.

In 2022, AD Ports Group supported 398,400 jobs across the UAE, representing 14.1% of non-oil sector employment. Within Abu Dhabi, it created around 261,700 jobs, notably providing 32.1% of

the emirate's manufacturing jobs. This job creation is critical for supporting the UAE's vision of a sustainable economy and offers meaningful employment in high-growth sectors like manufacturing and construction, attracting skilled professionals to the region.

AD Ports Group's leadership is dedicated to building a sustainable, diversified economy. CEO Mohamed Juma Al Shamisi has stressed the group's focus on developing long-term economic foundations for the UAE, while Group Chief Strategy Officer Ross Thompson highlights the value of connecting Abu Dhabi with global markets. Their vision emphasizes local and international growth, strengthening Abu Dhabi's economy and elevating the UAE's status as a trade hub.

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Member of



Using trusts to protect your assets

What is a Trust?

A trust is a legal fiduciary relationship created by a party known as the "settlor" or "grantor" of the trust, by transferring assets to another party, known as "trustee", but for the benefit of third party, known as "beneficiary".

A settlor can also be a beneficiary of the assets put into the trust.

The origin of the Trust

The origin of the trust goes back to the Romans with the institution of the fiducia but was then developed in the 12th century in England when English lords went on crusade for long periods of time, sometimes forever as would die, leaving their assets on "trust" to another person, under the mandate to take care of such assets for the benefit of his family members in his absence or himself upon his return. Property law would not accept the distinction between the legal ownership of property - held by the trustee - and the beneficial ownership of property - held by the beneficiaries - and conflict arose when the lord would return to England, only to find out that the trustee would not accept returning the legal ownership of the assets entrusted to him.

The principle of Equity created by the Chancellor would then arise to correct the position, recognising that as it would be unjust for the lord or his family

not to regain ownership of the assets entrusted, sanctioned the distinction between legal ownership and beneficial ownership.

It then developed on common law jurisdictions and mainly for the purposes of wealth protection, succession planning and tax mitigation.

During the 20th century, offshore trusts gained popularity due to the additional layer of privacy or protection provided to assets from creditors or former spouses.

Basics of a Trust

- It creates a legal fiction consisting in distinguishing legal ownership from beneficial ownership.
- The trustee participates and manages the assets entrusted to him on behalf of the trust and for the benefit of the beneficiaries.
- Trust's assets are not part of the trustee's own property.
- Trust's assets may include any type of asset, including cash, securities, real estate, or life insurance policies.
- A trust can be created either for an individual or a company.
- A trust must have beneficiaries who are identifiable individuals, except a charitable trust, which can have a general purpose such as alleviating poverty.

Main aim of a Trust

As above indicated, the main aim of setting up a trust is to protect assets and ensure financial security, it is a useful tool to facilitate planning succession and provide tax efficiency.

The United Kingdom jurisdiction provides a legal framework that allows individuals and companies to set up a wide variety of different trusts, which can be tailored to the settlor's particular circumstances to maximize the advantages they provide.

At Scornik Gerstein LLP we can assist you to create the trust that best suits your needs.

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