# Trade Digest

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## Thailand's Jewelry VAT To Be Eliminated

A recent change in tax law means that it is now a good time for Thai jewelry producers and importers. The Cabinet agreed on 9 February 2016 to eliminate the value-added tax (VAT) charged on unpolished gems and pearls imported into Thailand, said the Fiscal Policy Office.

VAT on imported raw gems will be permanently decreased from seven percent to zero percent (VAT-free). In addition to the elimination of 7% VAT, individual importers will pay a 1% flat income rate on sales of unpolished gems and pearls, instead of paying personal income tax at progressive tax rates.

Previously, the gem and jewelry industry faced four key problems which were a shortage of skilled labor, lack of support for research and development, low financial liquidity, and the high cost of importing raw materials. The tariff elimination is seen as a way of dealing with the last problem. It is also believed that this measure will help support downstream jewelry makers to import raw materials at a lower cost, thereby enhancing the export competitiveness of Thailand's gem and jewelry industry.

Thailand's overall gem and jewelry export value rose from 10,079 billion USD in 2014 to 10,815 billion USD in 2015. The major importers of Thailand's gem and jewelry products are Hong Kong, Switzerland, and the United States. The three most important exported products are gold, diamonds, and precious stones.

Furthermore, in order to support Thailand's aim of becoming the "Golden Gateway" to the gems and jewelry industry in the ASEAN region, the government is also helping to promote exports by developing overseas markets via trade fairs, road shows, and exceptional exhibitions. The next fair, the 57th Bangkok Gem and Jewelry Fair, is scheduled to take place in Bangkok during 24-28 February 2016. According to Mr. Suttipong Damrongsakul, President of the Thai Gem and Jewelry Traders Association, the fair is expected to attract tens of thousands of buyers from all over the world.

## BOI Emphasizes Investment in Innovation

The Board of Investment of Thailand (BOI) has announced plans to strengthen its electronics and technology investment policy, with the hopes of attracting the world's leading technology companies to invest in Thailand and develop the local innovation industry. The push comes after the successful initiation of the technology investment policy in 2015 when 319 projects were initiated and 116 billion THB was invested.

Most of the BOI's investment last year was aimed at projects relating to smart devices or parts for smart devices. One prime example was the 3.9 billion THB investment capital in lighting device parts used for building LCD screens on smart phones. However, the most notable achievement last year was with Sony Products (Thailand) Co., Ltd. The amount of support and investment Sony Products (Thailand) received for its smart phone production department was so significant that the company decided to move its manufacturing base to Thailand. This is the first time the company has ever set up a manufacturing base overseas.

The BOI wants to gradually move Thailand away from being only a manufacturing location, to becoming a creator of innovative and novel technology and electrical products. That is why this year the BOI aims to focus its technology

investment efforts more towards product design and innovation, providing equal investment opportunities for new companies to invest in Thailand and for existing locally-based tech companies. Last year the BOI already provided this type of investment opportunity to Silicon Craft Technology Co., Ltd, a local Thai tech company geared towards innovation. Silicon Craft Technology received an initial 20 million THB investment capital from the BOI to further develop its creation of a new type of implanted chip to monitor the growth and development of animals.

This direction of investment can have positive results for companies wanting to focus more on innovation or looking for incentives to innovate, as well as for the country to become a stronger competitor in technology and innovation on the world stage.

## New Competition Law Underway

On 2 February 2016, Cabinet members and relevant bodies discussed several amendments and additions to the Trade Competition Act B.E. 2542 (1999). The draft Trade Competition Act B.E. … was approved in principle before submission to the Council of State for a further review. Once approved by all relevant agencies, the draft legislation will be submitted to the National Legislative Assembly before being announced in the Royal Gazette.

One of the main revisions awaiting approval is the re-establishment of the regulating bodies on competition policy, namely the Trade Competition Commission (TCC) and the Office of Trade Competition Commission (OTCC). The current Act B.E. 2542 (1999) requires the TCC to be composed of four bureaucrats and not morethan 12 experts. The TCC has faced strong criticism for its lack of independence since the Minister of Commerce chairs the Commission, and recommendations from the Federation of Thai Industries and the Thai Chamber of Commerce, whose memberships are dominated by big businesses, are required for half of the experts. The revised Act aims to ensure that the Commission is an independent body with seven commissioners selected by the Cabinet serving for a maximum of two terms of six years – an extension of the current two-year limit.

The revised Act will also boast an extension of enforcement capabilities. One of the most heavily criticized aspects of the current law is the exemption of state enterprises from regulation on any unfair trade practices. The new Act aims to include all state enterprises, with exceptions only for certain legal procedures and for state enterprises responsible for public well-being.

Another addition is that any conduct committed in whole or in part outside of Thailand which is deemed as an infringement of free and fair competition under this Act and which negatively effects Thailand's market shall be prosecutable in Thailand.

Moreover, the fine cap in the current Act of 6 million Baht is to be removed and in its place the highest fine which can be imposed is set at 20% of the annual revenue from the year the infringement occurred. However, the jail sentence for mergers infringing the Act has been removed. The imposition of a fine by the TCC can be appealed by the business operator involved at the relevant court.

The term "Business operator" will be redefined to include the business operator or affiliated companies. Along with a revision of the

term “Business operator with market domination”, this designation shall be regulated by the TCC. Furthermore, the Act requires at least one review of the criteria for defining a dominant position to be conducted every 5 years.

However, the Office of the Attorney General is concerned that the removal of the jail sentence proposed by the Cabinet constitutes a breach of the Cabinet authority. As a result, the Office of the Attorney General has asked the Council of State to review the Cabinet’s proposed changes.

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If you have any comments or questions regarding Trade Digest or any matters discussed herein, or if you are interested in finding out more about Bolliger & Company Consulting services, please contact any of the persons below:


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