

Imposition of Price Freeze and Enumeration of Establishments Allowed to Operate during the Period of Enhanced Community Quarantine

The Department of Trade and Industry (“DTI”) issued various circulars in line with the Philippine government’s response to the COVID-19 pandemic. These circulars address various measures taken by the government including the imposition of price freeze or price control, measures against panic buying and hoarding, and granting of grace period for rent due on residential and commercial leases. The circulars also address the movement of cargo and transit of personnel of business establishments allowed to operate during the enhanced community quarantine (“ECQ”) declared under the Memorandum issued by the Executive Secretary on March 16, 2020.

Joint Memorandum Circular No. 2020-01: Price Freeze Under A State of Calamity Throughout the Philippines due to COVID-19

A price freeze or price control on all basic necessities, including other products considered essential by government agencies was automatically imposed pursuant to the Price Act, following the proclamation by President Rodrigo R. Duterte placing the country under a state of public health emergency on March 8, 2020. On March 16, 2020, with the declaration of state of calamity over the entire Philippines, the price freeze was extended for sixty (60) days or until May 15, 2020, unless sooner lifted by the President. The DTI, together with the Department of Agriculture and Department of Health (“DOH”), as implementing agencies of the price freeze, issued on March 18, 2020 a Joint Memorandum Circular to clarify the list of products covered by the price freeze to ensure strict implementation and enforcement, as well as each implementing agencies’ power to recommend (i) the imposition of a price ceiling on basic necessities at a level other than its prevailing price, and (ii) a price ceiling on any basic necessity or prime commodity beyond May 15, 2020 should the existence or effects of COVID-19 continue to persist beyond that date. Penalties for violation of the price freeze under the Price Act are applicable in addition to the penalties prescribed under relevant ordinances issued by local government units and other applicable laws.

DTI Memorandum Circular No. 2020-07: Anti-Hoarding and Anti-Panic Buying

On March 19, 2020, DTI issued DTI Memorandum Circular No. 2020-07 on Anti-Hoarding and Anti-Panic Buying to implement measures to ensure the availability of certain products throughout the duration of the public health emergency. These products include non-food items such as face masks, disinfectant alcohol, hand sanitizers, disinfecting liquids, as well as food items such as bottled water, milk and bread. Retailers are required to limit sales to consumers to the given quantities per transaction.

Penalties for hoarding under the Consumer Act are applicable in addition to the penalties prescribed under relevant ordinances issued by local government units.

DTI Memorandum Circular No. 2020-08: Ensuring Unhampered Movement of Cargo and Transit of Personnel of Business Establishments Allowed to Operate During the Enhanced Community Quarantine

On March 20, 2020, DTI issued DTI Memorandum Circular No. 2020-08 which enumerates the various enterprises that are allowed to operate during the period of ECQ. These are:

1. Manufacturing and Processing Plants of Basic Food Products, Essential Products, Medicine and Medical Supplies (i.e., all food, soap, detergents, diapers, feminine hygiene products, tissue, wipes, toilet papers, disinfectants, medicines, vitamins, PPEs, masks, gloves)
2. Retail Establishment (Groceries, Supermarkets, Hypermarkets, Convenience Stores, Public Markets, Pharmacies, and Drug Stores)
3. Logistics Service Providers (Cargo Handling, Warehousing, Trucking, Freight Forwarding, and Shipping Line)
4. Hospitals and Medical Clinics
5. Food Preparations and Water Refilling Stations
6. Delivery Services, whether in-house or outsourced, transporting only Food, Water, Medicine, or other Basic Necessities
7. Banks and Capital Markets
8. Power, Energy, Water and Telecommunications Supplies and Facilities, Waste Disposal Services
9. Export and Business Process Outsourcing Companies

These enterprises shall be allowed to continue operations with a skeletal workforce, subject to strict observance of safety protocols and social distancing measures in the workplace, as well as alternative work arrangements such as work-from-home schemes. Further, the circular provided for the unhampered movement of all food and non-food cargoes within and to and from Luzon.

DTI Memorandum Circular No. 2020-11: Prescribing Guidelines for Additional Business Activities Allowed to Operate to Ensure the Steady Supply of Basic Necessities and Essential Commodities

In this circular issued on March 31, 2020 as a supplement to DTI Memorandum Circular No. 2020-08, DTI allowed the operation of other economic activities in the supply chain of food and essential products, medicine and medical products, such as production of raw and processed materials, packaging and other inputs, including the manufacturing and distribution thereof.

The aforementioned establishments are allowed to operate at a maximum of 50% of their respective workforces, unless the supply level of such product warrants a higher capacity and approved by DTI. However, manufacturers of medical devices such as PPEs and surgical masks are allowed to operate

at full capacity given the critical need for supply of these medical devices. These businesses are encouraged to provide temporary accommodation and shuttle services to their employees.

This circular reiterated the directive of ensuring the unhampered movement of cargoes and workers of the above permitted economic activities.

DTI-DOF Joint Memorandum Circular No. 2020-02: Guidelines on the Operations and Incentives of Covered Enterprises Engaged in the Manufacture, Importation, and Distribution of Certain Products and for Other Purposes, Pursuant to Republic Act No. 11469

On April 1, 2020, DTI, together with the Department of Finance, issued Joint Memorandum Circular No. 2020-02 to implement certain provisions of Republic Act No. 11469, or the “Bayanihan to Heal As One Act.” This circular seeks to implement the provisions of said law authorizing the President to liberalize the grant of incentives for the manufacture or importation of critical or needed equipment or supplies including those for healthcare, and ensure the availability of essential goods particularly medicine. These incentives include exemption from import duties, taxes and other fees as well as simplified release of imported goods. To implement the circular, the DTI, through the Board of Investments (“BOI”) is authorized to issue accreditation certificates to covered enterprises and an authority to import for covered products.

These covered products are:

1. Medicine identified as critical and necessity by DOH
2. Medical Equipment and devices
3. Personal Protective Equipment
4. Surgical equipment and supplies
5. Laboratory equipment and its reagents
6. Support and maintenance for laboratory and medical equipment
7. Medical supplies, tool, and consumables, cleaning materials, and common medicines
8. Other supplies or equipment as may be determined by DOH and other relevant government agencies.

Raw materials and packaging materials exclusively used for the production of the aforementioned products are also covered. The covered enterprises include those in the supply chain to ensure availability of the covered products.

The circular also suspended export requirements imposed under the laws administered by the relevant investment promotion government agencies. The export enterprises that manufacture the covered products shall supply at least 80% of their daily production to government institutions, hospitals, and private establishments in the country for local or domestic use. The local sales of these enterprises will be treated as part of their “export sales” in compliance with the relevant export requirement. Thus, the exemption on duties, taxes, fees, and other incentives shall continue to apply to these export enterprises.

DTI Memorandum Circular No. 2020-12: Guidelines on the Concession on Residential Rents; Commercial Rents of Micro, Small, and Medium Enterprises

On April 4, 2020, DTI issued Memorandum Circular No. 2020-12 to implement the mandate under the “Bayanihan to Heal As One Act,” which required lessors to grant a minimum thirty (30)-day grace period on commercial rents of micro, small and medium enterprises that were forced to temporarily close, and residential rents, falling due within the period of the ECQ without incurring interests, penalties, fees, and charges. The grace period is determined to be the thirty (30) calendar days following the last due date of the rent which fell due within the period of the ECQ. However, lessors are not obligated to refund the rents already paid during the period of ECQ. There shall also be no eviction for failure to pay the residential and commercial rents within the thirty (30)-day period after the lifting of the ECQ. Penalties for violation of this mandate are provided in the “Bayanihan to Heal As One Act.”

DTI Memorandum Circular No. 2020-14: Ensuring Enhanced Operations for BPO Companies and Export Enterprises, and their Service Providers, Throughout the Extended ECQ

In view of the extension of the ECQ over Luzon (which was initially up to April 13, 2020) until April 30, 2020 as declared under the Memorandum issued by the Executive Secretary Memorandum on April 7, 2020, DTI issued DTI Memorandum Circular No. 2020-14 on April 11, 2020 to facilitate the enhanced operations of business processing outsourcing (“BPO”) companies and export enterprises throughout the extended ECQ period.

BPO companies and their support service providers are allowed to conduct activities such as the delivery or installation of necessary equipment for the work-from-home arrangement and telecommunications services by telecommunications companies. They are also allowed to provide logistical support, such as food and essential goods, to their employees, and other support services that may be required in the operations of BPO companies.

Export enterprises are also allowed to deploy workers under an on-site or near-site accommodation arrangements or by providing point-to-point shuttle services. The circular defines near-site accommodations as housing arrangements provided by the company for its employees within a five-kilometer radius of the factory or facility, or located in the same or in an adjacent municipality. Employees who are residents of the areas within the five-kilometer radius shall be allowed to work. Strict social distancing measures in these housing accommodations and shuttle services shall be observed.

DTI Memorandum Circular No. 2020-15: Extension of Operating Hours for Retail Establishments Authorized to Operate during the ECQ

On April 11, 2020, DTI, through the issuance of DTI Memorandum Circular No. 2020-15, allowed retailers, engaged in the sale and offering for sale of basic necessities and prime commodities, essential goods, and medical products covered by the “Bayanihan to Heal As One Act,” to extend their daily operating hours to a maximum of twelve (12) hours. These retailers include supermarkets, groceries, agri-fisheries stores, public markets, pharmaceutical, and drugstores. The objective of the extended retail hours is to spread the flow of consumers in keeping with social distancing directives and enable increased number of consumers served daily.

DTI Memorandum Circular No. 2020-16: Allowing Other Essential Business Activities

On April 13, 2020, DTI enumerated additional manufacturing activities and allowable products for delivery that may be conducted throughout the duration of the extended ECQ.

Manufacturers of other essential products such as pet food and hygiene products (i.e., shampoo and conditioners), including the supply and manufacturing of their raw materials, are now allowed to operate. These establishments shall observe the same guidelines in the previous DTI issuances pertaining to movement of personnel and providing on-site or near-site accommodations and shuttle services to their employees.

Delivery services of pet food and hardware products are also included in the list of delivery services of the covered enterprises previously mentioned in DTI Memorandum Circular No. 20-08. The providers of these delivery services are required to observe contactless pick-up and delivery.

Contacts



Ben Dominic R. Yap
Partner

D +632 8894 0377 to 79
F +632 8552 1978
bdryap@cagatlaw.com



**Kristine Ninotschka L.
Evangelista**
Partner

D +632 8894 0377 to 79
F +632 8552 1978

kristine.evangelista@cagatlaw.com

Our Regional Contacts

RAJAH & TANN | *Singapore*

Rajah & Tann Singapore LLP

T +65 6535 3600
sg.rajahtannasia.com

CHRISTOPHER & LEE ONG | *Malaysia*

Christopher & Lee Ong

T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

R&T SOK & HENG | *Cambodia*

R&T Sok & Heng Law Office

T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN | *Myanmar*

Rajah & Tann Myanmar Company Limited

T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP
Shanghai Representative Office**

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | *Indonesia*

Assegaf Hamzah & Partners

Jakarta Office

T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office

T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | *Thailand*

R&T Asia (Thailand) Limited

T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

RAJAH & TANN LCT LAWYERS | *Vietnam*

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office

T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

RAJAH & TANN | *Lao PDR*

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

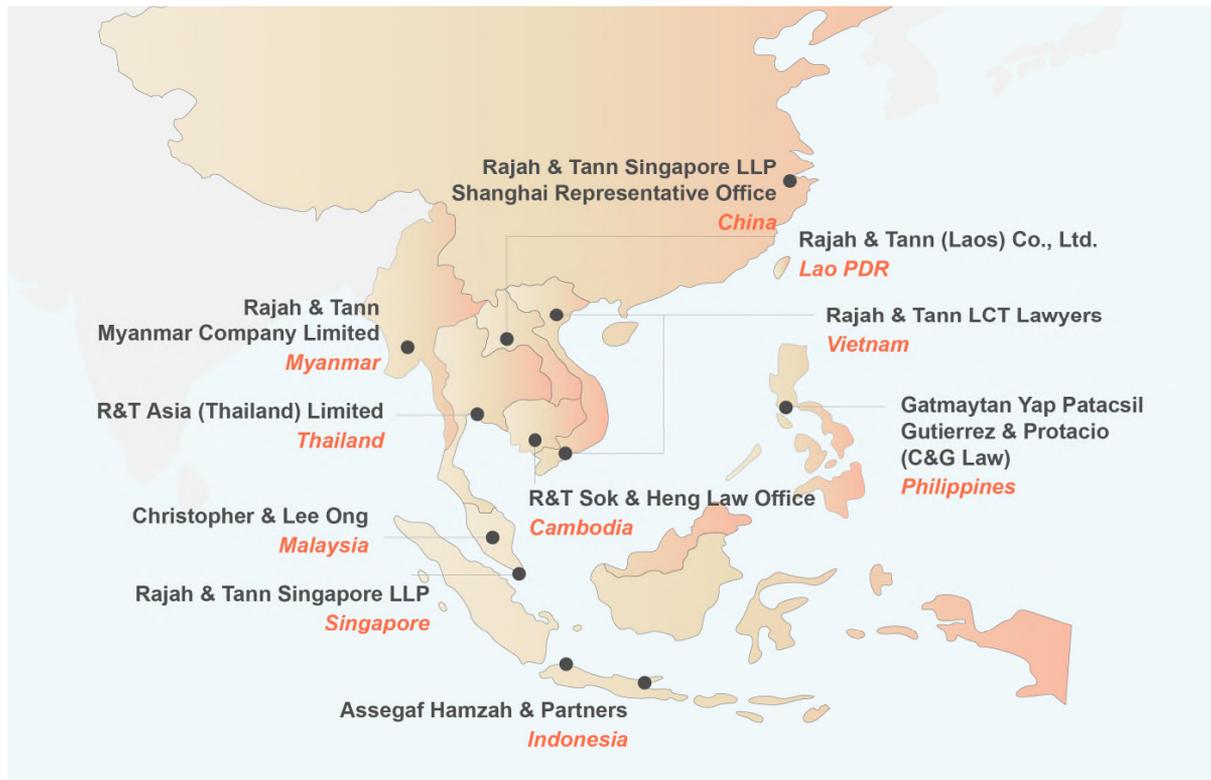
Hanoi Office

T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.

Our Regional Presence



C&G Law is one of the fastest growing, most dynamic and cutting edge firms in Manila today, and is the trusted partner and go-to firm of choice for many local conglomerates, multinational corporations, leading financial institutions, governmental agencies and fast growing organisations in the Philippines. It is also now the firm of choice for the leading lights in the top law schools who are looking to join a firm with pedigree, integrity, uncompromising quality and excellence in service standards.

C&G Law is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by C&G Law and subject to copyright protection under the laws of the Philippines and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of C&G Law.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in C&G Law.