

# Business Integration and the New Merger Scheme

14 November 2023



# Agenda

1. New merger scheme under the CCC 03
2. Case study 16



1

# New merger scheme under the CCC



# Forms of business integration

## Business transfer

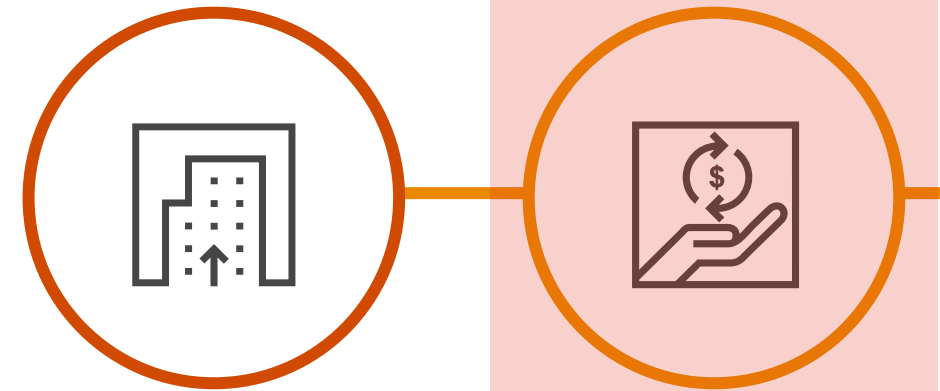


Normal  
business  
transfer (NBT)

Partial  
business transfer  
(PBT)

Entire  
business transfer  
(EBT)

## Business integration



Amalgamation

**Merger**

# Recap of CCC amendment: Amalgamation

## Previous Section 1238

A limited company may be amalgamated with another limited company by special resolution.

## Amended Section 1238

Limited companies may be **amalgamated** by a special resolution.

Two or more companies may be **amalgamated** under either of the following descriptions:

- 1) Amalgamation to form a new company and the amalgamating companies shall lose their juristic person status.
- 2) **Merger whereby one company retains its juristic person status and the other loses its juristic person status.**

### Amalgamation



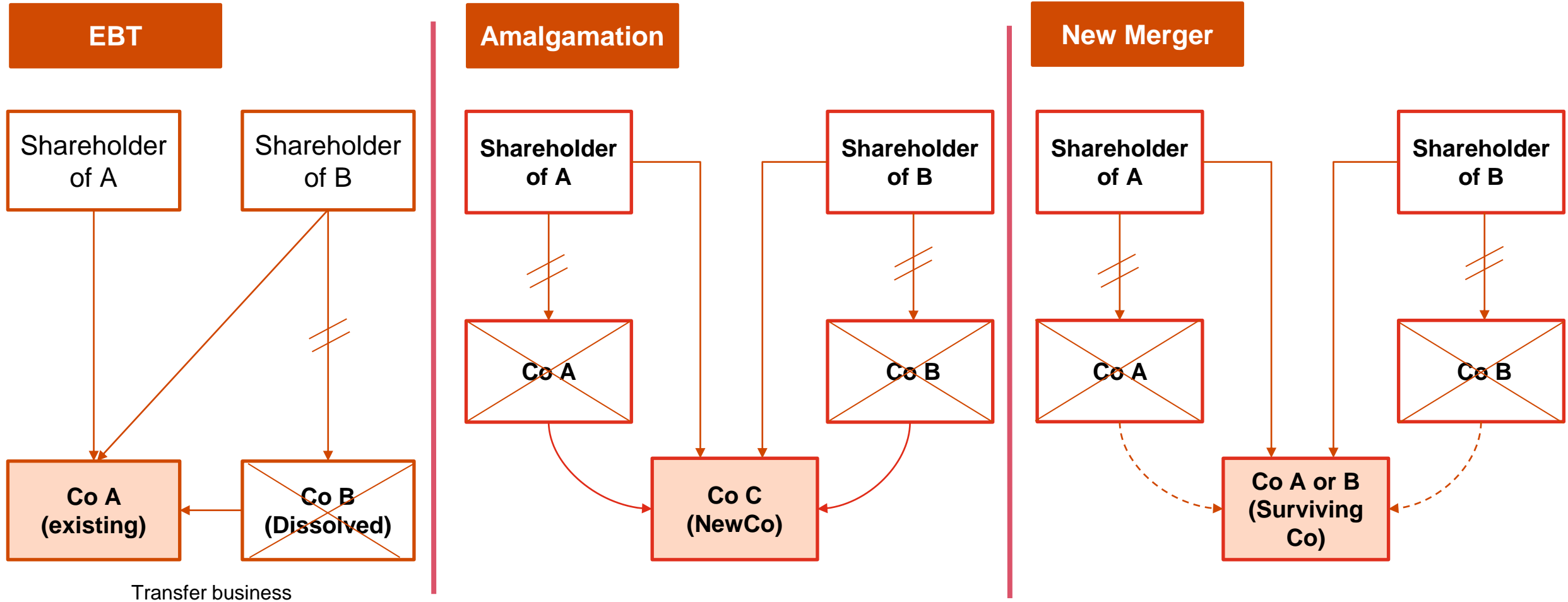
### Amalgamation



### Merger



# Overview of business integration



# Legal consequences of mergers and amalgamations

The merging/amalgamating companies will be dissolved by operation of law. No dissolution process is required.



01

In a merger, the surviving company can adopt the surviving company's name or choose a new name.

In an amalgamation, the new company can adopt the name of one of the amalgamating companies or choose a new name.

02



03

All shareholders of the merging or amalgamating companies will become the shareholders of the new or surviving company. Shares will be allotted at the shareholders' meeting.

04



The new or surviving company will automatically assume the property, liabilities, rights, obligations and responsibilities of all dissolved companies.

# Other key developments

More details about the processes and timeframe

01

Creditor objection period reduced from 60 days to one month

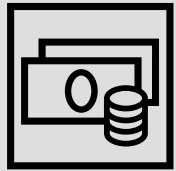
02

More protection for dissenting shareholders voting against the amalgamation or merger

The company must arrange for buyers to purchase the shares of the objecting shareholders, who may sell their shares within 14 days from the date of receiving the offer.

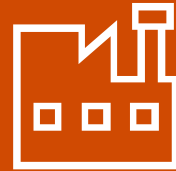
# Merger

01



Valuation

02



Immovable property

03



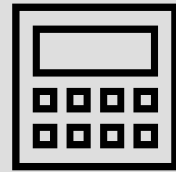
Depreciation

04



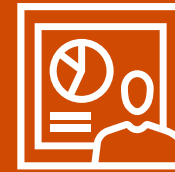
Employees

05



Tax attributes

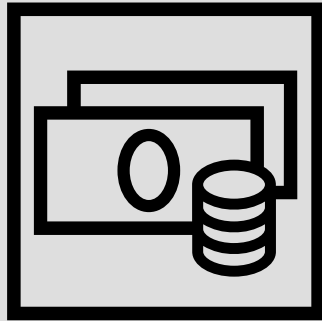
06



Shareholders

# Merger

01



Valuation

1

Is a **valuation** of the business required?

2

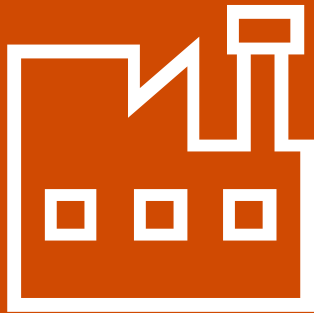
**Internal/ third party valuation report** ?

3

What are the **tax consequences** ?

# Merger

02



Immovable  
property

1

No 2% transfer fee

2

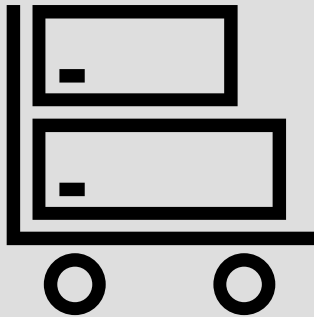
No WHT

3

Procedures to get tax/fee exemption

# Merger

03



Depreciation

1

Assets (other than goodwill): Continue depreciation using the same method

2

Goodwill (arising from the merger)

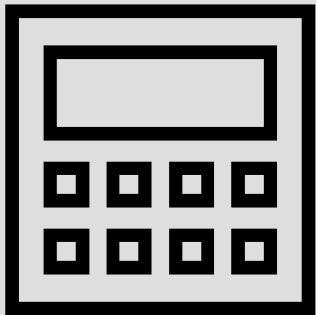
# Merger



- 1 CIT treatment on employee provisions
- 2 Legal concerns relating to employees

# Merger

05



Tax  
attributes

1

Surviving of tax losses

2

Tax refund

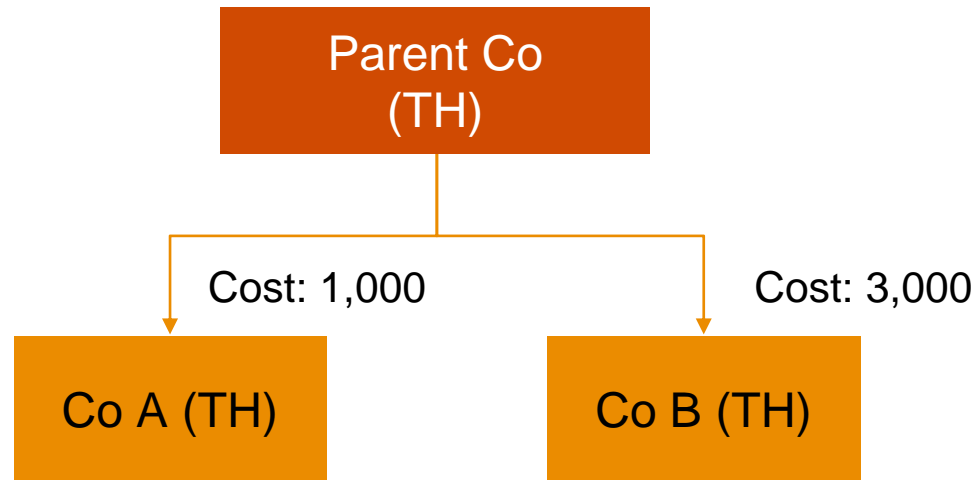
# Merger

06

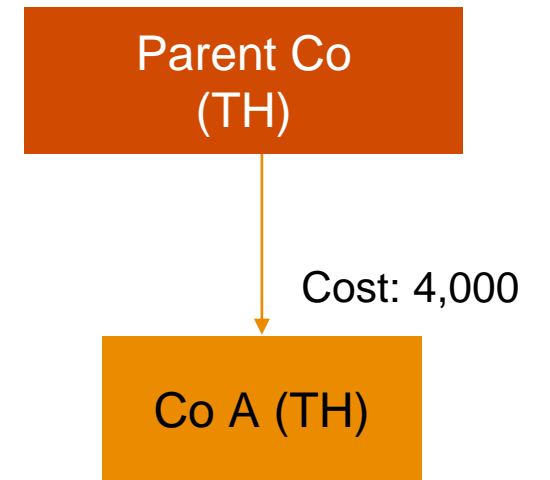


Shareholders

## Pre-restructuring



## Post-restructuring



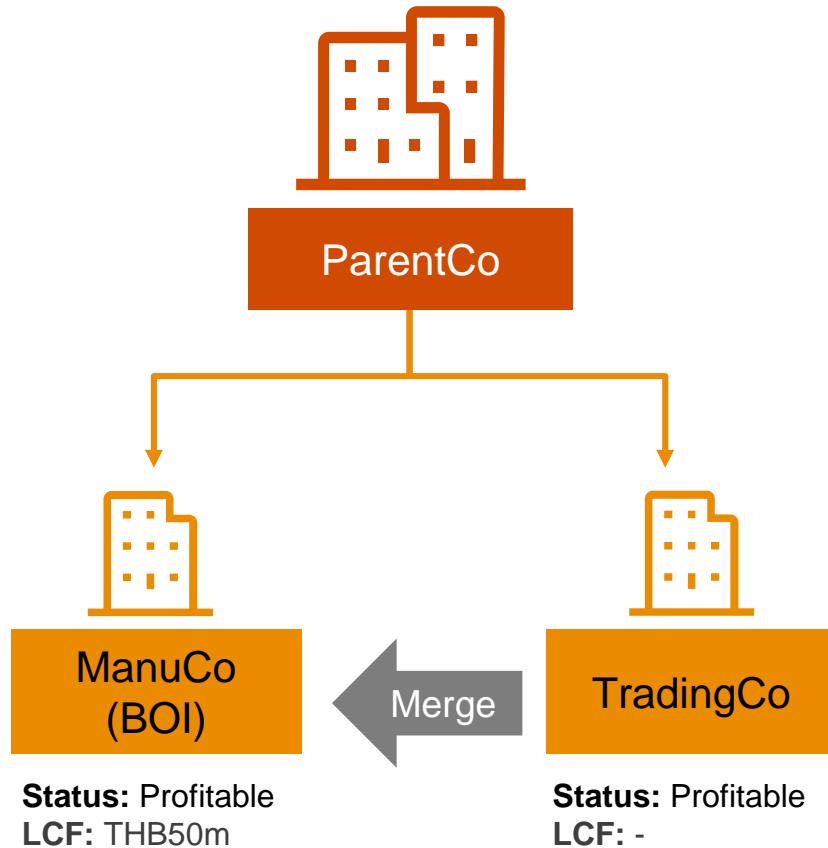


2

## Case study



# Case study: How to combine ManuCo and TradingCo?



## Facts:

	ManuCo THB (m)	TradingCo THB (m)
Accounts receivable	50	40
Land	100	30
Inventory	10	20
Machinery	50	-
Employee provision	(50)	(20)
<b>Net asset value</b>	<b>160</b>	<b>70</b>

- ManuCo has a **tax loss of THB50m**.
- TradingCo has a **long-term relationship** with customers and distributors with some existing contracts.

# Key tax outcome of merging ManuCo and TradingCo

<b>Valuation of business</b>	<b>May not be required</b>
<b>Tax costs on transfer of business</b>	<b>CIT/ VAT/ WHT Exempt (except for goodwill)</b>
<b>2% transfer fee</b>	<b>Exempt</b>
<b>ManuCo's tax loss</b>	<b>Kept if ManuCo is the surviving entity</b>

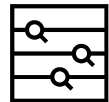
# Factors affecting the choice of business integration type



Legal status of entities



Restrictions on and complexity of transferring licenses



Entities' size, business and asset type (e.g. land and buildings)



Cash flow and funding requirements



Timing



Tax costs and opportunity costs

# Contact



**Vanida Vasuwanichchanchai**

Partner

vanida.vasuwanichchanchai@pwc.com

+66 (0) 2844 1303



**Vunnipa Ruamrangsri**

Partner

vunnipa.ruamrangsri@pwc.com

+66 (0) 2844 1284



**Pimprapai Silawatshanani**

Director

pimprapai.silawatshanani@pwc.com

+66 (0) 2844 1188

# Thank you

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