



SEA Transfer Pricing Centre— Thailand tax alert

Expanding perspectives and possibilities

Thailand releases new transfer pricing law

In a bid to improve its transfer pricing rules and comply with international tax standards, the Government of Thailand recently enacted the country's transfer pricing law on 21 November 2018. The full text of the new law, which had been approved by the National Legislative Assembly earlier this year, was published in the Royal Thai Government Gazette.

Key features and disclosure form requirements

The Thai transfer pricing law, which will be effective for accounting periods commencing on or after 1 January 2019, provides a broad definition of related companies or partnerships. It requires companies or partnerships with related party transactions to submit a disclosure form together with its annual corporate income tax return. The disclosure form must provide information on the relationship between entities and the value of the related party transactions.

However, companies or partnerships whose revenue is less than the amount to be stipulated by a supporting Ministerial Regulation, are not required to file the disclosure form. The Thai transfer pricing law stipulates that the revenue threshold to be required by the

Ministerial Regulation shall not be less than THB200 million.

The Ministerial Regulations and other important notifications that will provide more clarity on the implementation of the new law, will be released by the Thai Revenue Department (TRD) soon.

Power of tax authorities and TPD requirements

Under the new law, tax assessment officers, upon the approval of the Director General of the TRD, may request for transfer pricing documentation (TPD) and other supporting information necessary for the transfer pricing analysis of the related party transactions of the company or partnership. The tax assessment officer can request for the transfer pricing documentation within five years after the submission of the disclosure form. The TPD is due 60 days after receiving a notification from the TRD, with a possible extension period of up to 120 days. However, companies or partnerships that are given the notification for the first time have 180 days from the date of the issuance of the notification to comply with the requirements.

Tax assessment officers are also given the authority to adjust for corporate income tax, cross-border withholding tax, and profit remittance tax purposes the income and expenses of companies deemed to have violated the transfer pricing law (i.e. companies whose related party transactions are not at arm's length). The arm's length principle requires that the pricing of related party transactions be based on the pricing which would have been agreed in transactions involving independent parties.

Tax refund prescription period

Tax adjustments resulting from a transfer pricing adjustment can be requested within three years from the due date for filing of tax returns or within 60 days after receiving a written notice of a transfer pricing adjustment from the tax officers.

Penalties

Failure to lodge the disclosure form or transfer pricing documentation by the due date or failure to lodge complete disclosure form or transfer pricing documentation may result in a fine not exceeding THB200,000.

Contact

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