

Tax Alert

Thai Government Cabinet approves draft amendments to the headquarter regimes

On 10 October 2018, the Cabinet approved the drafts amendment to four Royal Decrees aimed to: (i) abolish existing headquarter regimes that could promote or lead to tax base erosion which includes Regional Operating Headquarters (ROH1 and ROH2), International Headquarters (IHQ), and International Trading Centre (ITC), and (ii) introduce the new regime, namely International Business Centre (IBC).

The important objectives of the draft amendments are as follows:

- To conform to the Base Erosion and Profit Shifting (BEPS) initiative of the Organization for Economic Co-operation and Development (OECD) as an Inclusive Framework (IF) member; and
- To amend the headquarter regimes through the repeal of ROH1 and ROH2, IHQ, and ITC regimes, and to substitute them with the promotion of IBC.

With regards to the effective dates of the amendments and more details of the new IBC regime, the Ministry of Finance, together with the Council of State, will proceed further on the approval and timeline.

While the draft amendments are not available to the public at this time, please find below for your reference, the Cabinet-approved summary of tax benefits, as announced by the Thai Revenue Department (TRD).

Amendments to existing tax incentives under the headquarter regimes

Regime	Interested applicants	Existing grantees
ROH1	Deadline for application submission was on 10 October 2018	Have the options to either; 1. Retain the granted benefits until 2020; or 2. Migrate to the IBC regime
ROH2	Deadline for application submission was on 15 November 2015	Have the options to either; 1. Retain the granted benefits until the completion of 10 or 15 years granted; or 2. Migrate to the IBC regime
IHQ	Deadline for application submission was on 10 October 2018	Have the options to either; 1. Retain the granted benefits until the completion of 15 years granted; or 2. Migrate to the IBC regime
ITC	Deadline for application submission was on 10 October 2018	Can retain the granted benefits until the completion of 15 years granted

Promotion of IBC regime

Benefits granted	Conditions
<ul style="list-style-type: none"> - Reduced CIT rate to 8%, 5%, or 3% based on annual expenditures of THB 60 million, 300 million, or 600 million, respectively for income received from provision of IBC services, treasury support services, and qualifying royalty income; - CIT exemption on dividends received from associated enterprises both in and outside Thailand; - CIT exemption for overseas entities deriving dividends and/or interest income from an IBC; - SBT exemption on treasury support income received from associated enterprises both in and outside Thailand; and - 15% PIT flat rate for expatriate employees of IBC. 	<ul style="list-style-type: none"> - Minimum share capital of THB 10 million; - Incur minimum expenditure of THB 60 million in Thailand, this shall not be applicable to the grantees who migrate from ROH1, ROH2, and IHQ regimes; and - Comprise of at least 10 staff (5 staff in case an IBC has only treasury support service).

Deloitte’s observations

Based on the facts above, it is apparent that the TRD is proceeding with the vision to streamline all existing headquarter regimes into one: the IBC regime. When compared to that of its predecessors’, the scope of activities and the benefits offered under the IBC regime appear to be less, and as a result of Thailand being an IF member, the substance requirements appear to be more, with significant differences as follows:

- The IBC regime does not allow trading (buy-sell) activities, and no longer offers different CIT rates (0% vs. 10%) for offshore vs. onshore service transactions (i.e., no more CIT exemption incentive on offshore-derived income);
- The minimum spending requirement is increased from THB 15 million to THB 60 million; and
- The addition of minimum number of staff requirement condition.

Furthermore, the deadline of application submission by interested applicants for the existing regimes was enforced on the same day as the Cabinet Resolution (i.e., 10 October 2018) even though the amendments have yet to become effective. Therefore, it is a clear indication of the TRD’s commitment in closing the door for new applicants to the existing headquarter regimes that are not in compliance with the BEPS requirements.

It is recommended for parties interested in the IBC regime to keep an eye on the official amendments and the new IBC law to be enforced and released, in order to make an informed decision for the next steps.

The Deloitte Thailand tax team will provide updates on this matter and arrange for a seminar on the new IBC regime shortly once the official information on the new laws is provided.

Anthony Visate Loh
**Business Tax & Indirect Tax,
Legal Services**

Tel: +66 (0) 2034 0000 ext 40112
Email: aloh@deloitte.com

Chairak Trakhulmontri
Transfer Pricing

Tel: +66 (0) 2034 0000 ext 10338
Email: ctrakhulmontri@deloitte.com

Darika Soponawat
**Business Tax (Japanese Services Group)
& Indirect Tax**

Tel: +66 (0) 2034 0000 ext 40115
Email: dsoponawat@deloitte.com

Dr. Kancharat Thaidamri
Transfer Pricing & Business Tax

Tel: +66 (0) 2034 0000 ext 40118
Email: kthaidamri@deloitte.com

Korneeka Koonachoak
**Business Tax (Business
Model Optimization)**

Tel: +66 (0) 2034 0000 ext 40122
Email: kkoonachoak@deloitte.com

Mark Kuratana
Global Employer Services

Tel: +66 (0) 2034 0000 ext 40125
Email: mkuratana@deloitte.com

Stuart Simons
Transfer Pricing & Customs Services

Tel: +66 (0) 2034 0000 ext 40135
Email: ssimons@deloitte.com

Wanna Suteerapornchai
Business Tax (M&A) & FSI

Tel: +66 (0) 2034 0000 ext 40144
Email: wsuteerapornchai@deloitte.com

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