

## Tax & Legal Services Newsletter

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### Measures Issued to Promote Tax Compliance

In an effort to promote tax compliance, the following tax measures have been introduced by the Thai government:

- An Emergency Decree on the Collection of Tax under the Revenue Code 2015:  
Grants an exemption from a tax audit, a tax investigation, an assessment and criminal penalties to companies and juristic partnerships whose income during the 12-month accounting period did not exceed THB 500 million. The exemption will apply to the entity's income and revenue, the value of its tax base and the execution of any instruments before the 2016 accounting period. To qualify for the exemption, the company or juristic partnership must meet the following requirements:
  - Register with the revenue department in accordance with rules, conditions and a period to be established by the Director General.
  - File tax returns and pay the corporate income tax due as from 2016.
  - File relevant tax returns and pay value added tax, specific business tax and stamp duty (if any) as from 2016.
  - Prepare accurate accounting information as from 2016. Beginning in 2019, commercial banks will use this information for credit analysis purposes.

The benefits under this Emergency Decree does not extend to cover companies and juristic partnerships which are currently under the investigation or are issuers of a false tax invoice.

- Royal Decree No. 595:  
Exempts and reduces the corporate income tax for companies and juristic partnership that established prior to 1 January 2015 having a paid-up capital not exceeding THB 5 million and income from sales and services in the accounting period not exceeding THB 30 million as follows:

Net profits	Accounting period 2016	Accounting period 2017
Not exceeding THB 300,000	Exempt	Exempt
Over THB 300,000	Exempt	10%

Companies and juristic partnerships must be registrants under the aforesaid amnesty in order to be eligible for such tax exemption and reduction benefits.

### Tax Measure to Boost Consumer Spending

Ministerial Regulation No. 310 allows individuals to deduct the value of goods or services supplied to them between 25 - 31 December 2015 (except for liquor, beer, wine, tobacco, gasoline, natural gas to fill vehicles, automobiles, motorcycles and watercraft), as actually paid, up to a maximum of THB 15,000, provided the individual has a full tax invoice for the supply.

### Promotional Measure for Domestic Investment

The Thai Cabinet has approved the draft Royal Decree that will grant companies and juristic partnership a double deduction on capital expenditure incurred on the addition, alteration, extension or improvement of assets (but not repairs for maintenance), provided the payment is made during the period 3 November 2015 to 31 December 2016. The capital expenditure must be related to the operation of the taxpayer's core business and for investment in machinery, parts, equipment, instruments, tools, computer software, vehicles registered under the law governing such vehicles, but not including passengers car with fewer than 10 seats and permanent buildings (excluding land and residential buildings). The Royal Decree aims to stimulate domestic investment.

### Reduced Burden on Purchases of Immovable Property

The Thai Cabinet has endorsed the draft ministerial regulation on the measure that will allow purchasers of immovable property a deduction equal to 20% of the amount paid for buildings with land or condominium units purchased as personal residences that are valued up to a maximum of THB 3 million when calculating the taxpayer's personal income tax liability. This measure will apply to purchases made between 13 October 2015 and 31 December 2016 where the transfer of ownership of the immovable property is registered during that period.

Taxpayers must apportion the tax deduction equally over a five-year period starting from the tax year in which the transfer of ownership of the immovable property takes place.

### Income Tax Exemption on Certain Shares of Profits by a Non-juristic Partnership

Ministerial Regulation No. 309 grants an income tax exemption on the following shares of profits received from a non-juristic partnership or body of persons:

- Shares of profits from the rental of jointly owned immovable property acquired by bequest or gift.
- Shares of profits from an interest in deposits where tax was withheld at source, provided the taxpayer does not request a refund of the tax withheld and does not use a tax credit (in whole or in part).

The rules apply to assessable income received as from 2015.

## Supreme Court Decision

### Tax Invoices with Incomplete Name and Address

Company A received incomplete tax invoices from the Telephone Organization of Thailand and the Provincial Electricity Authority (PEA) on its telephone and electricity bills. For example, the tax invoice did not state "Public Company Limited" or otherwise include the company's previous name. Tax invoices from the PEA, in particular, included the address of the location where electricity was used, rather than the company's address as a payer of income. The tax assessment officer took the position that the tax invoices were incomplete for VAT purposes due to the mismatch between the information in the tax invoices and in the tax registration and, disallowed the company's use of the input tax under the relevant invoices as a tax credit for purposes of the VAT computation.

Upon appeal, the Supreme Court held that there is no provision in the Revenue Code that specifically requires that the name and address of the buyer of goods/services be identical to what the taxpayer has registered for VAT purposes. The court also took note of the fact that the company had requested that the issuer of the tax invoices make the corrections, but the issuer did not make the changes. The court concluded that where a mismatch of information in tax invoices does not result in any confusion as to the company's identity, the mistake cannot be regarded as an event where the registrant prepared a tax invoice containing particulars that are incomplete or inadequate. Hence, the input tax deduction should not have been disallowed for the purposes of the VAT computation.

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