



Tax & Legal Services Newsletter

Tax Return Filing Deadline Extended for BOI-Promoted Companies

Following the controversy surrounding the offsetting of corporate income tax losses of companies with multiple BOI-promoted projects, the Supreme Court had ruled that the BOI-promoted companies must first aggregate the profit/losses generated by all of its promoted activities and only then may the remaining net losses be set off against the taxable profits of the non-promoted activities. Consequently, the Notification of the Ministry of Finance dated 16 June 2016 has been issued to extend the deadline of corporate income tax return filing for non-compliance companies to 1 August 2016.

That deadline has now once again been extended by the order of the National Council for Peace and Order No. 45/2559 to 15 August 2016, and also applies to a company bound by the above court's decision.

LTF Tax Privileges Revised

Royal Decree No. 317 contains new rules on the personal income tax allowances for investments in long-term equity funds (LTF) by increasing the minimum holding period for LTF units from five to seven years.

Tax Return Deadlines for Registered Businesses under the Emergency Decree

Following the issuance of an Emergency Decree that grants an exemption from a tax audit for previous accounting periods to registered companies whose income during the preceding accounting period did not exceed THB 500 million, the Thai Revenue Department issued guidance (Guidance No. 5) to remind the companies to file an annual tax return (PND.50) for the 2015 accounting period by 29 May 2016. If the return was not filed by that date, it can be filed by 31 August 2016, but penalties, surcharges and criminal fines will be imposed. Failure to meet both of the above deadlines will result in revocation of the tax audit exemption.

Rules on Eligible Capital Expenditure Expenses

Royal Decree No. 604 sets out rules on eligibility for an additional 100% deduction for capital expenditure. Notification of the Director-General No. 270 contains specific rules for the deduction of capital expenditure relating to the construction of buildings (e.g. a request for the construction or modification of a building must be filed between 3 November 2015 and 31 December 2016).

Deductible Expense for Tourism

Ministerial Regulation No. 316 grants a personal income tax allowance of up to THB 15,000 on tourism expenses actually paid for services of a tour operator or for hotel accommodation, provided the payment is made during the period 1 January 2016 to 31 December 2016.

Supreme Court Decision

Customs Penalty and Surcharge Nondeductible for Corporate Income Tax Purposes

A company imported goods for resale in Thailand, but was found by the Thai Customs to have under-declared the value of the goods. The company paid the custom duty, along with a penalty and surcharge and recorded the total amount as expenses in calculating its corporate income tax liability. The Thai tax assessment officer disallowed the deduction of the penalty and surcharge.

The Supreme Court ruled that the company intentionally under-declared the value of the goods in order to avoid tax. Consequently, the customs' penalty and surcharge cannot be regarded as expenses incurred specifically for the purpose of its business, and, therefore, the amounts are nondeductible for corporate income tax purposes.

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