

## Tax & Legal Services Newsletter

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### Corporate Income Tax Benefits for SMEs and Juristic Partnerships

Royal Decree No. 583 issued contains reduced corporate income tax rates and an exemption for companies or juristic partnerships that have paid-up capital not exceeding THB 5 million at the last date of the accounting period and income from sales and services in the accounting period not exceeding THB 30 million. The decree aims to improve the liquidity of such entities and help to relieve the tax burden on small and medium-sized enterprises (SMEs). The following corporate income tax rates apply to accounting periods starting on or after 1 January 2015:-

- Exempt: Net profits not exceeding THB 300,000.
- 15% on net profits exceeding THB 300,000, but not exceeding THB 3 million.
- 20% on net profits that exceed THB 3 million.

### Appraisal Value of 2015 Local Development Tax

The Cabinet has approved the Ministry of Interior's proposal to apply the median value of land used in assessing the local development tax between 1978 and 1981 for the assessment of the 2015 local development tax. The reformation of rules in land appraisal and local development tax rates to fit with the current environment has not yet been finalized.

### Changes Proposed to Personal Income Tax Brackets

The National Reform Council (NRC) committee on economic and financial reform has proposed to the Ministry of Finance an expansion of the personal income tax brackets because the current rates have not been changed in more than 20 years. The changes are aimed at updating the tax rates to fit with the current environment, inflation and higher economic development. Additionally, the plan envisioned an expansion of the taxpayer base and reduced tax rates for existing taxpayers. The NRC also has proposed that the stamp duty be abolished in the near future.

### Tax Exemption Granted for 13 Industries

The Policy Committee on Special Economic Zone Development has agreed to grant a maximum of eight-year income tax exemption for the following industries: (1) agriculture, fishery and related industries; (2) ceramics; (3) textiles, garments and leather; (4) furniture manufacturing; (5) gems and jewelry; (6) medical equipment manufacturing; (7) automotive, machinery and parts; (8) electrical appliances and electronics; (9) plastic production; (10) production of medicines; (11) logistics; (12) industrial

estates/zones; and (13) tourism promotion. The Board of Investment (BOI) will provide further details on the exemption.

### Proposal to Expand Tax Return Filing Obligation

The Cabinet meeting approved a proposal for the Thai Revenue Department to conduct further studies on applying the PND 9 to all citizens. According to the proposal, all citizens would be required to report a taxable income in a manner similar to the normal income tax return, regardless of whether the amount of income was below the threshold for filing a return. The proposal aims to facilitate census information gathering as well as helping to deliver public policy for each group of people.

### Supreme Court Decision

#### VAT Treatment of Importation under BOI Promotion Policy

The Supreme Court has issued a decision on the VAT treatment of imported goods when the company is benefiting from a BOI promotion.

Company A received a BOI promotion to produce ethanol, under which Company A was entitled to an exemption from import duty and VAT on materials imported for the production process. However, certain imported materials were still being reviewed by the BOI to determine whether they qualified for import duty and VAT exemption. Company A used a letter of guarantee with respect to its import duty instead of making an import duty payment. The BOI subsequently determined that some of the imported materials qualified for the tax exemptions, but others did not. On this basis, Company A paid tax on the non-exempt materials. The assessment officer took the position that Company A's tax liability was triggered on the date of importation rather than on the date of the BOI's decision and, therefore, Company A was liable for a 100% penalty, as well as a 1.5% monthly surcharge from the date it presented the letter of guarantee on import duty.

The Supreme Court held that the VAT/import duty liability on imported goods arose when Company A presented the letter of guarantee. Therefore, a subsequent payment of that liability, even if made within the period specified in the assessment notice, would not be considered a payment of VAT within the applicable time limit. Company A, therefore, was liable to the penalty and surcharge.

### Revenue Department Ruling

#### VAT on Services Provided in Thailand

The Thai Revenue Department has ruled that a company providing intermediary broker services on a foreign stock exchange constitutes services provided in Thailand and, therefore, is subject to the 7% standard VAT.

Company B operated as a broker selling securities to foreign and Thai juristic persons, and to Thai and nonresident individuals. When the customers placed their purchase orders for foreign securities (i.e. shares of a company in Laos) by telephone or email, Company B input the client's purchase order through an online system, and forwarded the order to a broker in Laos for further execution on the Laos securities exchange. Company B received commissions, service fees and other expenses.

The Thai Revenue Department ruled that Company B provided services in Thailand as a broker on the foreign stock exchange. Accordingly, the services were considered to be provided and used in Thailand

and, hence, were subject to the 7% VAT. Other expenses received by Company B must be included in the VAT base for purposes of Company B's VAT computations if the amounts were received on Company B's own behalf or if Company B is unable to prove that the amounts were in fact collected on behalf of the Thai or Laos stock exchanges.

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