

## Tax & Legal Services Newsletter

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### Changes to Tax Treatment of Non-Juristic Partnership

The Act Amending the Revenue Code No. 39 repeals the personal income tax exemption on shares of profits of a non-juristic partnership and a body of persons, effective 1 January 2015. As a result, income received by a non-juristic partnership will be subject to tax at two levels: at the level of the partnership/body of persons and at the level of the partners or individuals. The Act also gives a definition of “non-juristic partnership” as whereby two or more persons agree to unite for a common undertaking, but not as an ordinary partnership.

In addition, the Director-General’s Notification on Income Tax No. 249 requires that a non-juristic partnership and a body of persons prepare books of account or revenue and expense reports, as follows:

- The books/reports must contain the beginning and ending balance, income received and expenses paid during the tax year, along with the information prescribed in the form attached to the Director-General’s notification.
- The books/reports must be in the Thai language (if the book/report is prepared in a foreign language, a Thai translation must be made available).
- The books/reports must be submitted to the assessment officer at the time the annual tax return is filed.

The notification applies for tax returns filed as from 1 January 2015.

### Allowing Deductible Expense for Tourism

The Thai Government issued regulations on the promotion of domestic tourism as follows:

- Royal Decree No. 580 grants a 200% corporate income tax deduction on either the amount of expenses incurred on renting seminar rooms, accommodation fees, transportation and other expenses relating to domestic seminars/trainings held by a company or juristic partnership for their employees, or expenses paid to a tour operator under the law governing the business of tour operators and guides for such seminars/trainings, made during the period 31 December 2014 to 31 December 2015.
- Ministerial Regulation No. 305 grants a personal income tax exemption on assessable income equal to the amount paid for services of a tour operator under the law governing the business of tour operators and guides or paid for hotel accommodation to a hotel operator under the law governing the hotel business, up to a ceiling of THB 15,000, made during the period 16 December 2014 to 31 December 2015.

The Director-General's Notification on Income Tax No. 250 sets out the eligibility criteria for the tax exemption under the Ministerial Regulation. For example, the taxpayer must be the payer of the services for his/her personal travel, and he/she must be able to produce evidence that payment was made to the tour operator or hotel that includes the taxpayer's name, amount paid, date of payment, etc.

### New Investment Promotion Strategy and Incentives for Special Development Zones

The Board of Investment (BOI) has approved the "Seven-Year Investment Promotion Strategy" (2015-2021), which applies to all applications submitted as from 1 January 2015.

Priority industries under the new strategy include high-technology, creative and service industries that support the development of the digital economy, as well as any activities that develop and utilize local resources. The BOI industrialized zoning system will be abolished. Eligible activities will be divided into two main groups: Group A activities will receive a corporate income tax exemption and Group B will receive non-tax incentives. The list of eligible activities has not yet been announced.

The BOI also has approved the policy on Incentives for Special Development Zones. In addition to the basic incentives granted for certain activities, the BOI will promote investment projects located in special economic development zones in five provinces (Tak, Trat, Sa Kaeo, Songkhla and Mukdahan provinces). Qualifying projects in these provinces will receive an additional three-year corporate income tax exemption.

### Reduction in Tax Rate for SMEs

The Cabinet has approved a reduction in the corporate income tax rate for companies or juristic partnerships that have paid-up capital not exceeding THB 5 million at the end of the last accounting period and income from sales and services in the accounting period not exceeding THB 30 million. The measure applies to accounting periods starting on or after 1 January 2015, in respect of which the corporate income tax rates are as follows.

| Net profits                     | Current rates | Proposed rates |
|---------------------------------|---------------|----------------|
| THB 0 – THB 300,000             | Exempt        | Exempt         |
| >THB 300,000 – THB 1 million    | 15%           | 15%            |
| > THB 1 million – THB 3 million | 20%           | 20%            |
| Over THB 3 million              |               |                |

### Surety and Mortgage Laws Amended

Changes to the surety and mortgage provisions have been made laid out under the Civil and Commercial Code Act (No. 20) B.E. 2557 (2014) and will apply as from 12 February 2015. The new rules aim to provide better protection to third party guarantors/mortgagors. The revised rules will prevent financial institutions and professional lenders from concluding agreements

that waive the rights of a guarantor/mortgagor prescribed under the law or that make a guarantor/mortgagor liable as the primary debtor, and the rules also set out the creditor's duties towards the guarantor/mortgagor.

Under the new rules, an agreement that stipulates that the guarantor will be bound jointly with a debtor or liable as a joint debtor will be void. Where property is mortgaged to secure the indebtedness of a third party, the liability of the mortgagor will be limited to the value of the property, i.e. the mortgagor will not be liable for any amount exceeding the value of the property at the time the mortgage is obtained. After the obligation becomes due, the mortgagor will have the right to notify the mortgagee in writing, instructing the foreclosure of the mortgaged property without taking any legal action. The mortgagee must sell the mortgaged property at public auction within one year after the date of receiving such a notice from the mortgagor.

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