



Tax & Legal Services Newsletter

Definition of Sale Price of Immovable Property Revised

The Cabinet has approved the Ministry of Finance's proposal to revise the personal income tax on sale of immovable property. The tax base currently is based on the appraised value of the property (for registering rights and juristic acts under the Land Code) regardless of the actual sale price. Once the amended rules become effective, they will define the sales price as (i) the actual selling price as declared by the seller, or (ii) the appraised value of the property at the date of the transfer, whichever is higher.

Tax Measures Promoting Investment in Southern Provinces

The Cabinet has approved the following tax measures that aim to promote investment in the southern provinces:

- Companies located in the southern provinces will be entitled to a double deduction of actual expenses incurred on the investment and/or the alteration, expansion or improvement of assets used for the sale or manufacturing of goods and the provision of services in the region.
- New start-up business operators located in the provinces will be granted a corporate income tax exemption for five accounting periods.

- To encourage highly skilled individuals from other provinces to come work in the southern provinces, the income tax rate on employment income will be subject to a reduced rate of 3%, and excludable from their other assessable income.
- Companies located outside the southern provinces will be entitled to a double deduction of expenses related to an investment in the shares of companies located in the provinces.

Tax Measures on Automotive Development

Director-General Notification No. 210 exempts service fees paid for the manufacturing of prototype cars or motorcycles from the VAT base. The exemption applies only to manufacturers of such vehicles for researchers engaged in automotive research and development that have been approved by the Excise Tax Department.

Supreme Court Decision

Income Tax on Profit Remittance

A Thai branch of a foreign company provided petroleum exploration services and had its clients remit the service fees it received to the back account of its foreign head office. At the end of its accounting period, the branch filed and paid corporate income tax on its net profits, and paid tax on the profits remitted abroad. The Thai assessment officer took the position that the tax on the profit remittance should have been paid based on the timing and service fees the clients transferred to the head office, as from the beginning of the year until the cumulative amount of service fees equaled the amount of the annual net profit.

The Supreme Court, however, held that the service fees paid by the clients to the head office included both the costs and expenses and the branch's net profit. Therefore, the methodology asserted by the tax authorities was incorrect, and the monthly profit remittance for purposes of the late payment surcharge should be calculated based on the prorated amount of each service fees payment paid to the head office.

Withholding Tax on Sea Port Services and Transportation of Goods

Company B imported chemical goods through Company C's sea port. Company B also hired Company C to move the goods from the vessel to a tank, and from the tank to a pallet or truck for delivery to Company B's customers. Each of the offered services is separate and optional.

The court held that the service fees were paid as consideration for the tasks performed, rather than just transportation services because Company C provided other services as well. Therefore, the agreement could be regarded as an agreement to perform services on hire of work that focused on the completion of work. The separate charge of each service fee is only a method to arrive at the consideration for the total services carried out, with each element of the work focusing on a common goal, i.e. transporting goods to the warehouse. Hence, it should be regarded as hire of work. In light of the above, the payer of the fees is required to deduct tax at source at the rate of 3%.

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