Tax & Legal Services Newsletter

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Cabinet Approves Draft Inheritance Tax Bill

The Thai Cabinet has approved the draft inheritance tax bill proposed by the Minister of Finance. The main features of the bill from unofficial sources are as follows:

- Beneficiaries subject to inheritance tax would include Thai and non-Thai individuals and juristic persons.
- A 10% tax would be imposed on bequests exceeding THB 50 million.
- The 10% rate is a ceiling rate; a Royal Decree would be issued to reduce the rate in general or provide for a reduced rate depending on the relationship between the testator and the beneficiary.
- The inheritance tax would apply to worldwide assets, with the criteria for assessing Thai assets prescribed in Ministerial Regulations.
- The value of an inheritance would be calculated after deducting any debts.
- The value of an inheritance would be the price or value of the asset on the date the bequest is made, i.e. the valuation price established by the Department of Land for immovable property and the closing price of securities on the date the bequest is made for securities traded on the Stock Exchange of Thailand. For other assets, the value would be determined in accordance with rules prescribed in Ministerial Regulations.
- The inheritance tax return and payment would be required to be submitted within 150 days after receipt of the bequest. Beneficiaries would be permitted to make instalment payments for up to five years in accordance with conditions to be prescribed under the Royal Decree.
- An exemption from the inheritance tax would be granted to spouses and to persons/organizations that receive the inheritance for religious, educational and public charitable purposes.
- Repeal of personal income tax exemption for gifts. Rather, a 5% gift tax would be imposed on the amount of the gift exceeding THB 10 million.

The draft now will be submitted to the National Legislative Assembly for further consideration and is expected to take effect in 2015.

Statute of Limitations on Income Tax Refunds Revised

The Act Amending Revenue Code (No. 38) B.E. 2557 was issued on 14 November 2014 to amend statute of limitations on income tax refunds under section 63 of the Revenue Code. Previously, the statute of limitations for a refund under this section was three years from the last day of the year in which the excess amount was deducted; however, section 27 ter provided a right to a refund within three years from the last day of the time limit prescribed by law for filing the tax return. The amendment aligns the statute of limitations under both provisions.

Tax Exemption under Financial Sector Master Plan

The Financial Sector Master Plan Phase 2 is a framework for improving the financial institution system during the period 2010 – 2014, and Royal Decree No. 502 grants tax benefits to financial institutions and their shareholders that undertake voluntary mergers or transfers of the business under the plan. A new royal decree (Royal Decree No. 578) now extends the tax benefits to mergers or transfers of business initiated during the period 1 January 2012 – 31 December 2014, but that have not yet been completed. The tax benefits can be summarized as follows:

- An exemption from personal income tax and corporate income tax for shareholders of financial institutions on capital gains arising from a merger or transfer of the entire business.
- An exemption from corporate income tax, specific business tax and stamp duty for financial institutions on assessable income, gross receipts or instruments on a merger or transfer of the entire business.
- An exemption from VAT, specific business tax and stamp duty for financial institutions on the value of the VAT base, gross receipts or instruments on a transfer of part of the business.

Measures to Promote International Headquarters and International Trading Centers

The Thai Cabinet has approved the following tax privileges proposed by the Ministry of Finance to promote the establishment of international headquarters (IHQs) and international trading centers (ITCs) in Thailand:

- IHQs: A corporate income tax exemption on net profits derived by an offshore associated company or branch, a reduced income tax rate of 10% on the net profits of a Thai associated company or branch, a withholding tax exemption on dividends distributed by the IHQ to a nonresident entity, a reduced income tax rate of 15% on the income of an expatriate employee of the IHQ and an exemption from the special business tax on intercompany loans.
- ITCs: A corporate income tax exemption for profits derived from the sale of purchased goods and the provision of services abroad, a reduced income tax rate of 10% on income from the sale to an offshore associated company or branch of raw materials or intermediate goods purchased in Thailand, an exemption from withholding tax on dividends distributed by the ITC to a non-resident entity, and a reduction to 15% in the rate of income tax on the income of an expatriate employee of the ITC.

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