

## Tax & Legal Services Newsletter

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### Inheritance Tax Law passed

The National Legislative Assembly has approved the inheritance tax act, although threshold for the imposition of the tax has been raised from THB 50 million to THB 100 million. A 10% tax will be imposed on bequests exceeding THB 100 million. A 5% rate will apply if the beneficiary is a descendant or an ascendant of the testator.

### Corporate Income Tax Exemption and Reductions for IHQs/ITCs

Royal Decrees No. 586 and 587 provides for the following reduced tax rates and exemptions for qualifying international headquarters (IHQs) and international trading centers (ITCs):

- A 15% reduced personal income tax rate on income of expatriates who work for IHQs and ITCs.
- A reduced 10% corporate income tax rate for 15 accounting periods for IHQs on net profits derived from the provision of qualifying services (i.e. management, technical, support, financial management services) to, and royalty income received from, Thai affiliates.
- A corporate income tax exemption for 15 accounting periods for IHQs on income derived from the provision of qualifying services (i.e. management, technical, support, financial management services) to, and royalty, dividend income received from, affiliates incorporated under foreign law, as well as gains derived from the transfer of shares in such companies.
- A corporate income tax exemption for 15 accounting periods for IHQs and ITCs on income derived from the overseas procurement of goods and sales, provided the goods are not imported into Thailand, and international trade-related services with overseas companies (e.g. procurement of goods, warehousing, transportation of goods, insurance on goods, etc.).
- A corporate income tax exemption on dividends distributed and interest paid by an IHQ to a foreign company, as well as an exemption from the specific business tax on any income derived by an IHQ from loans granted to affiliates.

IHQs and ITCs must meet a number of requirements to benefits for the above incentives. For example, the company must have paid-up capital of more than THB 10 million, annual operating expenses of at least THB 15 million, provide services to affiliates incorporated under foreign law and obtain approval from the Director-General of Revenue.

## Formal Transfer Pricing Rules to be Included in the Revenue Code

The Cabinet approved a draft act proposed by the Ministry of Finance that would amend the transfer pricing rules in the Revenue Code. The salient features of the rules are as follows:

- Revenue officers would have the authority to adjust the prices (income and expense) of related party transactions that are not concluded on arm's length terms. Parties (two or more companies or juristic partnerships) would be deemed to be related for these purposes if they have a direct or indirect relationship, in the capital, management or control.
- If a taxpayer is entitled to a tax refund for tax overpaid as a result of a transfer pricing adjustment, the taxpayer would have to file a refund claim within 60 days from the date it received the notification of the tax assessment or within three years from the date the tax return was due. This measure is aimed at eliminating double taxation.
- Taxpayers (companies or juristic partnerships) engaging in transactions with related parties would be required to prepare and file a contemporaneous transfer pricing documentation within 150 days of the closing date of an accounting period that details the following: (1) the relationship between the parties (i.e. in terms of capital, management, and direct or indirect control); and (2) the transfer pricing method adopted in the intercompany transactions and how it was arrived at. Failure to comply with the documentation requirement or the submission of inaccurate or incomplete documentation would give rise to a penalty not exceeding THB 400,000.

## Tax Incentives for Investments in Certain Specific Economic Development Zones

Royal Decree No. 584 reduces the tax rates for businesses operators in special economic development zones (SEZs) located in the four southern border provinces (Narathiwat, Pattani, Yala and Songkhla). The incentives are as follows:

- A reduction of the personal income tax rate to 0.1% of the assessable income received from the business operations (assessable income under section 40(7) and (8) of the Thai Revenue Code).
- A reduction of the corporate income tax to 3% of net profits for income derived from the sale of goods and the provision of services in the SEZ.
- A reduction of the personal income tax rate and withholding tax to 0.1% of assessable income on the sale of immovable property situated within the SEZ.
- A reduction of the specific business tax to 0.1% on the sale of immovable property situated in the SEZ.

The decree applies to income derived from the sale of goods and the provision of services in the period 1 January 2015 and 31 December 2017.

## Corporate Income Tax Reduction in SEZ

The Cabinet has approved the Ministry of Finance's proposal for a 10% corporate income tax rate for 10 accounting periods on net profits for newly established businesses or existing businesses that expand buildings used in their operations, and that are established in an SEZ. The new rules are aimed at stimulating investment in the SEZ. To qualify for the reduced rate, the net profits must be derived from products manufactured to replace goods that were imported, products manufactured for export sale,

products that tend to lose their competitiveness within an SEZ, or income from services provided and used in the SEZ.

## VAT Exemption on Supply of Electronic Publications

Royal Decree No. 585 provides a VAT exemption for newspaper, magazine or textbooks provided in electronic format via the internet.

## Donations for Victims of Nepal Earthquake

The Thai tax authorities have announced that donations for victims of the recent earthquake in Nepal may be deducted for corporate and personal income tax purposes provided the donation is made to Thai government agencies. Similarly, donations made in the form of money or assets channelled through companies or juristic partnerships or other juristic persons must be subsequently forwarded to the Thai government agencies in order to take a tax deduction.

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