



## Tax & Legal Services Newsletter

### Extension of 7% VAT Rate

The Cabinet has approved the extension of the 7% VAT rate for another year (i.e. until 30 September 2017).

### Double Deduction of Capital Expenditure

Current law allows a double deduction of capital expenditure for various assets, provided such assets are acquired and "ready to use" by 31 December 2016. Royal Decree No. 622 now eliminates the 31 December 2016 deadline for building and machinery that are acquired or ready to use after 31 December 2016.

### Tax Measures for Social Enterprises

Royal Decree No. 621 provides the following tax benefits for social enterprises that aim to increase local employment and facilitate community social and/or environmental development:

- A corporate income tax exemption for a social enterprise that, in each accounting period, without dividend payments, invests or uses its entire net profit to provide aid to the farmer or poor, disabled or under-privileged individuals or for any other public benefit;
- A deduction for all amounts invested by a company in the ordinary share capital of a social enterprise; and
- A deduction for the value of assets (including cash) contributed or transferred to a social enterprise for no consideration, limited to 2% of the donor company's net profit when combined with the public charities and public benefits,
- To qualify for the tax benefits, a social enterprise must file an application with, and be approved as a social enterprise by, the Director-General of the Revenue Department and be certified by other agencies as designated by the Revenue Department.

### **Tax Exemption on Debt Restructuring**

Royal Decree No. 623 grants corporate and individual debtors an income tax exemption on the release of debt by financial institutions under debt restructuring formulated by the Bank of Thailand and conducted from 1 January 2015 onwards.

### **Income Realized on Sale of Immovable Property**

The Revenue Department requires the Publicly Accountable Entities (PAE) to realize income from sale of immovable property at the time of the transfer of the ownership in order to be consistent with the accounting standards. Departmental Instruction No. law. paw. 262/2559 enables a subsidiary, which is non-PAE and which prepares financial statements combined with its PAE parent company, to realize income from the sale of immovable property at the time of the transfer of ownership, excluding income from sales for which the company had applied other income realization methods for tax purposes.

### **Supreme Court Rules on Deemed Dividends**

Company A, a Thai company, was owned by a foreign corporate shareholder that also held shares in Thai Companies B and C. Before Companies A, B and C filed for dissolution, Company A had retained earnings of THB 101.7 million and paid (i) a dividend of THB 2.1 million to its foreign shareholder, and (ii) subsidies of THB 99 million to Companies B and C, which each company then used to repay the shareholder debt.

The Supreme Court held that Company A did not pay the retained earnings to the shareholder to avoid withholding Thai tax. As such, it is treated that the shareholder received a benefit in an amount of the subsidies paid from Company A to Companies B and C, and the Company A was subject to Thai withholding tax of 10% on the payment.

**Anthony Visate Loh**

**Business Tax & Indirect Tax,  
Legal Services**

Tel: +66 (0) 2034 0000 ext 40112  
Email: aloh@deloitte.com

**Darika Soponawat**

**Business Tax (Japanese Services Group)  
& Indirect Tax**

Tel: +66 (0) 2034 0000 ext 40115  
Email: dsoponawat@deloitte.com

**Dr. Kancharat Thaidamri**

**Transfer Pricing & Business Tax**

Tel: +66 (0) 2034 0000 ext 40118  
Email: kthaidamri@deloitte.com

**Korneeka Koonachoak**

**Business Tax (Business  
Model Optimization)**

Tel: +66 (0) 2034 0000 ext 40122  
Email: kcoonachoak@deloitte.com

**Mark Kuratana**

**Global Employer Services**

Tel: +66 (0) 2034 0000 ext 40125  
Email: mkuratana@deloitte.com

**Stuart Simons**

**Transfer Pricing & Customs Services**

Tel: +66 (0) 2034 0000 ext 40135  
Email: ssimons@deloitte.com

**Wanna Suteerapornchai**

**Business Tax (M&A) & FSI**

Tel: +66 (0) 2034 0000 ext 40144  
Email: wsuteerapornchai@deloitte.com

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