



Tax & Legal Services Newsletter

Cabinet Passes Draft Land and Building Tax Act

The Thai Cabinet has approved the draft Land and Construction Tax Act proposed by the Ministry of Finance. The salient features of the new rules, which will replace the Local Development Tax and will apply as from 1 January 2017, are as follows:

- Taxpayers will be the owners of land, construction and condominium units, and persons who occupy government land or construction.
- The tax base will be calculated based on the value of land and construction, taking into account depreciation over the time of use.
- The applicable tax rate will depend on the type of land and how a building is used, as follows:

Type of use	Tax rate (%)
Agricultural	0.2
Residential	0.5
Commercial and industrial	2
Wasteland	5

The above rates are maximum rates—the actual rates may be reduced.

- To reduce the tax burden on farmers and individuals owning a personal residence, land and construction used for agricultural and residential purposes with a value of not over THB 50 million will not be subject to the tax.
- A tax exemption will apply to certain types of land and construction (e.g. common property under the Condominium Act and land used as infrastructure for housing estates).

The draft of the Land and Construction Tax law now will be submitted to the National Legislative Assembly to undergo the legislative process.

Double Deduction for Bookkeeping Wages Paid to University Students

Royal Decree No. 607 grants a 200% deduction for expenses for wages paid to university students for bookkeeping services during the accounting periods between 2016 and 2018, provided the company has assets (excluding land) valued at an amount not exceeding THB 200 million and does not have more than 200 employees.

Repeal of Tax Exemption for Property Funds

Due to the 1997 financial crisis, the decrees granted property funds exemptions from VAT, specific business tax and stamp duty on the sale of goods and the provision of services, revenue and execution of instruments in an effort to help the real estate business sector rebound. Currently, the real estate business has recovered. So the tax exemptions no longer are needed. Consequently, Royal Decrees No. 608, 609 and 610 have been issued to repeal the exemptions for property funds.

Double Deduction on Seminars/Trainings

Royal Decree No. 611 grants a 200% deduction on expenses incurred on seminar rooms, accommodation fees, transportation and other expenses relating to domestic seminars/training held by a company or juristic partnership for employees, or expenses paid to a tour operator for such seminars/training held during calendar year 2016.

The Director-General’s notification on income tax No. 267 sets out the rules for the deduction; for example, where the purpose of the seminars/trainings is to enhance the

knowledge of employees and is beneficial to the business, the company or juristic partnership must maintain documentation that supports the seminar/training projects, demonstrates that the trainings are held in Thailand, etc.

Specific Business Tax Exemption for IHQ

Royal Decree No. 612 provides an exemption from the specific business tax for international headquarters on income from the provision of financial management services to associated enterprises. The exemption applies retroactively from 2 May 2015.

Supreme Court Decision

Offsetting of Tax losses for BOI-Promoted Companies

A company received an investment promotion from the Board of Investment and enjoyed an eight-year corporate income tax (CIT) exemption. Losses incurred during the tax holiday period could be used to offset against its taxable profits, in any year or years, for five years after the exemption period ended. Following the tax holiday, the company enjoyed a 50% CIT reduction for five years. The company carried out both promoted and non-promoted activities.

The company was in a loss position during the CIT exemption period, but had both profits and losses during the CIT reduction period.

The company calculated its taxable profits by setting off the losses incurred during the CIT exemption period against the taxable profits during the CIT reduction period, which resulted in no tax payable. However, the assessment officer took the position that the company was required to set off the losses of the CIT reduction project against the profits of the CIT reduction project before setting off the losses from the CIT exemption period against the profits of its non-CIT exempt/reduced business. Consequently, the company would not be able to utilize the losses incurred during the exemption period because the five-year post-tax holiday period had expired.

The Supreme Court ruled that the company's method of calculating its taxable profits did not follow the Revenue Department's Notification and Tax Ruling Commission's procedure for offsetting losses for CIT purposes and upheld the tax officer's assessment.

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