

## Tax & Legal Services Newsletter

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### Tax Measure to Boost Thai New-Year (Songkran Days) Spending

The Thai Cabinet has approved the Ministry of Finance's proposal on a measure that allows individuals to deduct the cost of certain goods and services supplied to them from 9 to 17 April 2016 for personal income tax calculation purposes, up to the ceiling of THB 15,000 in order to boost spending during the Thai new year holiday. Eligible expenses include: (1) food and beverage costs paid to restaurants or hotel operators under the laws governing the hotel business; (2) fees paid to tour operators for domestic tour services, under the law governing the business of tour operators and tour guides; and (3) hotel accommodation costs paid to hotel operators under the laws governing the hotel business.

### Tax Exemption for Venture Capital and Private Equity

Royal Decree No. 597 provides a tax exemption for Venture Capital (VC) and Private Equity (PE), the salient features of which are as follows:

- A corporate income tax exemption for 10 consecutive accounting periods is available to qualifying VC firms on dividends received from a targeted business (a company in which the investment is made), and capital gains derived from the transfer of shares of a "targeted business" (i.e. an entity which continuously engages in the government-supported business with the potential to generate additional value). In relation to the exemption from the corporate income tax on the capital gains, the targeted business must derive not less than 80% of its total income from business supported by the government in the accounting period prior to the period the VC firms receive the capital gains revenue from the transfer of shares in the targeted business.
- To qualify for the corporate income tax exemption on dividend income and capital gains, the VC firms must satisfy certain conditions; e.g. must be established under Thai law, having paid-up capital of at least THB 20 million on the last day of each accounting period and registered as a VC firm with the Office of the Securities and Exchange Commission by 31 December 2016.
- Personal income tax and corporate income tax exemption granted on dividends distributed from the tax-exempt income of the VC firms and on capital gains from a transfer of the VC firms' shares.
- Personal income tax and corporate income tax exemption granted on dividends distributed from the PE trust; however, such dividends must be paid out of income the PE trust derives from the investment in a targeted business (only the income generated from government-supported business). Personal and corporate income tax exemption are also granted on capital gains from the transfer of trust units in a PE trust investing in a targeted business.

- A government-supported business is a business that utilizes technological solutions as a major part of its manufacturing process or services, pursuant to the criteria set out by, and be certified by the National Science and Technology Development Agency (e.g. the food and agricultural industry, the energy-saving industry and biological/technological industry, etc.).

### Triple Deduction for R&D Expenses

Royal Decree No. 598 grants a triple deduction for expenses relating to R&D for the purpose of corporate income tax computation. However, the portion of additional deduction that exceeds two-third of the eligible amount shall not exceed the following income ratio:

Income (THB)	Percentage
Up to 50 million	60%
Over 50 million – 200 million	9%
Over 200 million	6%

### Tax Incentives for REIT Investment

Royal Decree No. 599 has been issued to encourage investment in Real Estate Investment Trusts (REITs) through the following incentives:

- Personal income tax and corporate income tax exemptions shall be granted to unitholders of a property fund on income from the conversion of property units into a trust certificate representing such units, provided the conversion is made as a result of the conversion of a property fund into a REIT.
- VAT, specific business tax and stamp duty exemptions shall be granted to the property fund on the value of the tax base, income or the execution of an instrument, respectively, on any transfer or creation of rights in assets or entitlements due to the conversion of a property fund into a REIT.

The tax exemptions shall apply to the conversion of a property fund into a REIT carried out from 25 February 2016 to 31 December 2016.

### Rules on Inheritance Tax Payment in Installments

Royal Decree on rules, procedures and conditions of inheritance tax payment in installments 2016 sets out the rules relating to the payment of the inheritance tax in installments. A taxpayer may file a request to pay inheritance tax on an installment basis (including the case where an additional assessment of tax is imposed by the assessment officer). The request must at least include the following details:

- The number of years of the installment period, which may not exceed five years;
- The number of installments per year (which can be made on a monthly, quarterly, semiannual or annual basis);
- The total installment amount to be paid each year;
- The amount to be paid in each installment (total amount payable each year must be equally allocated based on the number of installment per year); and
- Collateral must be made available, e.g. a guarantee letter from a financial institution, real estate, buildings, etc.

### Criminal Offense Provisions

The Act Amending the Revenue Code (No.41) has been issued to make the following changes to the criminal tax offense provisions:

- A fine not exceeding THB 200,000 or imprisonment of up to seven years, or both, shall apply in the case of failure to file a tax return under Section 37 Bis (the previous punishment was a fine not exceeding THB 5,000 or imprisonment of up to six months, or both).
- A fine of THB 2,000 shall be imposed for failure to submit a balance sheet under Section 69 (prior to this amendment there was no punishment).
- A fine ranging from THB 2,000 to THB 200,000 or imprisonment from three months to seven years shall apply for making a false tax refund claim (prior to this amendment there was no punishment).

### Draft Legislation on Implementation of FATCA Approved

The Cabinet has approved the Ministry of Finance's proposal in principle on the draft act for the international co-operation in relation to the exchange of information for tax collection purposes. The salient features of which are as follows:

- Issuing a royal decree that would be drafted to set forth the rules, procedures and conditions for the operation of information exchange for each intergovernmental agreement (IGA), covering various items, including the parties, reporting persons, information to be reported, reporting procedures and methods;
- Setting out the scope of duties for the competent officer who would act as a central point of contact for the purpose of information exchange between Thailand and other contracting countries;
- Appointing an officer under this act to be the officer under the Thai Criminal Code with authority to enter the place of business of persons having a reporting duty or the place of business of a service provider providing supporting services to the reporting persons, to inspect whether the requirements under the act are complied with;
- Granting a reporting person the authority to disclose and supply the relevant information to the competent officer, who then would be empowered to pass on such information to the other contracting party under the IGA;

- Setting out the statutory provisions that would protect the disclosure of information that is necessary to comply with this act, to the competent officer, and setting out a punishment for those that disclose such information to a third party; and
- Setting out penalties for violations of the act by reporting persons, and persons who obstruct or do not comply with the instructions of the competent officer. A commission for the payment of fines would also be set up.

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