



Tax & Legal Services Newsletter

New Rule to Tackle Tax Evasion

The Thai Cabinet has approved proposed changes to the Revenue Code that address tax avoidance and tax fraud activities as proposed by the Financial Action Task Force, as follows:

- The Director-General of the Revenue Department has the power to order the temporary seizure or freezing of assets if there is evidence of tax avoidance, evasion or fraud or where a taxpayer submits a false/fraudulent tax refund request.
- The movement, concealment, transfer or destruction of seized or frozen assets is prohibited.
- The assessment officer has the power to order the restitution of tax refunded if there is evidence that a false/fraudulent tax refund request has been filed. The officer is required to collect all relevant information and refer the case to the Anti-Money Laundering Office (AMLO).
- The AMLO must submit any information obtained under the anti-money laundering law to the Revenue Department.

- The offenses of tax avoidance/evasion and tax fraud are treated as offenses under the anti-money laundering law.

Tax Exemption for Transfer of Immovable Property to Children

The Thai Cabinet has approved a tax exemption for income derived from the gratuitous transfer of ownership or possessory rights to immovable property to legitimate children (excluding adopted children). The exemption applies to income received as from 1 February 2016, but only on the portion of income that does not exceed THB 20 million per child during the fiscal year. The exemption is designed to bring the income tax rules in line with the inheritance tax rules.

Tax Measures on Debt Restructuring

The Thai Cabinet has approved the following tax measures related to the restructuring of debt:

- Income arising from the forgiveness of debt by a financial institution as from 1 January 2015 is exempt from income tax at the level of the debtor (including a guarantor of the debtor).
- The write-off of bad debts from the account receivables of financial institution creditors, which is the portion of debt forgiveness offered as from 1 January 2015, does not need to comply with the bad debt write-off requirements under Ministerial Regulation No. 186.

Tax exemption for Sale of Immovable Property to Foreign Governments

The Thai Cabinet has approved a royal decree that will grant exemptions from personal income tax and stamp duty to persons deriving income from the transfer of immovable property to foreign governments or international organizations in cases where the transfer has been effected and the payment was made, but the registration of the right and juristic acts has not been made due to official orders.

Tax Exemption for Start-Up Businesses

Royal Decree No. 602 grants start-up businesses a corporate income tax exemption for five accounting periods, provided the business meets the following requirements:

- It registered as a company during the period 1 October 2015 to 31 December 2015;
- It has paid-up capital not exceeding THB 5 million and income not exceeding THB 30 million in any accounting period; and
- At least 80% of its total income comes from targeted industries.

The qualified companies must be registered with the Revenue Department and be approved by the National Science and Technology Development Agency.

Income Tax Reduction for SMEs

Royal Decree No. 603 reduces the corporate income tax rates for small and medium-sized enterprises (SMEs) that have paid-up capital not exceeding THB 5 million and income not exceeding THB 30 million in any accounting period, as follows:

Net Profit	Accounting period 2015-16	Accounting periods as from 2017
Over THB 300,000 and up to THB 3 million	10%	15%
Over 3 million		20%

Double Deduction on Purchase of Assets

Royal Decree No. 604 grants a 200% corporate income tax deduction for expenses incurred on the purchase of assets provided the following conditions are fulfilled:

- The capital expenditure is incurred on investment, renovation, alteration or betterment of assets relating to machinery, equipment, tools, decoration, furniture, software computer, vehicles (excluding cars or passenger cars with no more than 10 seats that are not rented) and permanent buildings.
- The expenses are paid during the period 3 November 2015 to 31 December 2016.
- The assets are in a ready to use state by 31 December 2016.
- The assets do not benefit from tax privileges under other royal decrees.
- The assets do not benefit from tax privileges under the law on the investment promotion unless the taxpayer has elected not to benefit from such privileges.

The Director General's Notification on Income Tax No. 266 sets out some additional conditions:

- For permanent buildings, a request to construct or modify must be during the period 3 November 2015 to 31 December 2016 and approval must be obtained.
- The additional deduction must be taken in equal amounts over five consecutive accounting periods (3 consecutive accounting periods and 20 consecutive accounting periods for computer software and permanent buildings, respectively).
- The company taking the deduction must prepare reports on the relevant assets in the format specified in the notification and the assets must be recorded in the company's fixed asset register.

Remark: The Thai Cabinet on 31 May 2016 endorsed an amendment to the rules under the Royal Decree No. 604 in which previously, the machinery or permanent building is to be obtained and be in a ready to use state by 31 December 2016. However, according to this Cabinet's resolution, the machinery or permanent building is not required to be obtained and be in a ready to use state by 31 December 2016 because the installation of a large machine typically requires substantial amount of time and the investment in the permanent building especially the construction of a large establishments may not be completed within the timeline indicated by the Royal Decree No. 604.

WHT on leasing of assets

Initially, under the departmental instruction no. TawPaw.4/2528, the payment for rental was subject to 5% withholding tax unless the leasing of assets is not subject to the withholding tax. Recently, the Revenue Department issued Departmental Instruction No. Taw. Paw. 259/2559 that repeals a withholding tax exemption that applied to the leasing of assets. As from 1 June 2016, payments made for the leasing of assets is subject to a 5% withholding tax.

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