



## Tax & Legal Services Newsletter

### Tax Measures for Special Economic Development Zones in the Southern Region

On 28 April 2017, the Thai government issued Director-General Notification No. 294, which applies retroactively from 28 January 2017 and sets out the eligibility criteria for the special economic development zone (SEZ) tax benefit measures in the Narathivas, Pattani and Yala provinces (provided under Royal Decree No. 628). The key SEZ tax benefits and eligibility rules are as follows:

- A reduced personal income tax rate to three percent of the assessable income for individual who relocate to work for companies located in an SEZ, provided the individual also meets following criteria:
  - In the case of non-specialists, the individual must hold a bachelor's or vocational degree, passes the relevant national skill standard test and has at least five to eight years' relevant work experience; or
  - In the case of specialists, the individuals must hold a bachelor's degree and has at least five to eight years' relevant work experience.

The employer must register the names of the employees that will benefit from the reduced rate before making the first salary payments at the relevant Revenue Office area.

- Companies that are not located in an SEZ are entitled to a double deduction for payments for:
  - Investments to establish a company that will be located in an SEZ; and
  - Capital investments in a company already located in an SEZ.

To be eligible, the investment must be made between 27 September 2016 and 31 December 2020 and the shares in the company are not sold or transferred (unless there is a justifiable reason for such sale/transfer).

### **Withholding Tax on Purchases of Rice**

Royal Decree No. 328, issued on 1 May 2017, reduces the withholding tax rate on purchases of rice from 0.75% to 0.5%. The rate reduction applies as from 2 May 2017, onward.

### **Income Recognition for Funding Received from Thai Government**

Departmental Instruction No. Taw. Paw. 279/2560, which was issued on 27 April 2017 and applies from that date, contains the income recognition rules for companies that jointly cooperate in a public-private partnership with the Thai government and receive government funding under the arrangement. In particular, for purposes of calculating net profit for the company's corporate income tax, the company must apportion the funding received as its taxable income over the life of the arrangement based on the company depreciates its cost of acquiring such concession.

### **Cash Payment Required for Company Registration Documents Subject to Stamp Duty**

Director-General Notification on Stamp Duty No. 56, which was issued on 27 April 2017, provides that stamp duty on company registration documents (i.e. the power of attorney letter, memorandum of association and articles of association of a limited company, as well as the partnership contract) must be paid in cash on or before the requested registration date. Where the documents are submitted electronically, stamp duty will be considered to be paid when a stamp duty officer marks the electronic document with the following: "fully paid in cash per electronic receipt."

The rule applies as from 18 April 2017 and 1 August 2017 for electronic company registration documents and non-electronic company registration documents, respectively.

### **VAT Registration via Internet**

Director-General Notification on VAT No. 214, which was issued on 27 April 2017, sets out the following rules for electronic VAT registration:

- A business license is required for an individual foreign supplier to register.
- An appointment of agency letter certified by embassies or consulates is required for non-resident suppliers that sell goods or provide services in Thailand regularly through an agent in Thailand.
- A foreign business license, and agreements containing details of the parties to the agreement and the value and duration of the agreement, is required in the case of a foreign juristic person that is temporarily carrying on business in Thailand.
- A letter certified by the condominium property manager is required in the case of an establishment located within a condominium.

This Notification is effective from 1 May 2017, onward.

### **Audited Financial Statement Filing Requirement for PND.50 Submitted via Internet**

Director-General Notification on Income Tax No. 297, issued on 26 May 2017, repeals the rule under the Notification of Director-General on Income Tax No. 127 that allowed companies that electronically submitted their annual corporate income tax returns to retain their audited financial statements at their head office instead of filing them with the return, provided the financial statements were maintained for at least five years. Under the notification, which applies retroactively to income tax return with filing due dates on or after 25 February 2016, companies now must electronically submit their audited financial statements with their income tax return, or submit the audited financial statements at the revenue branch office.

### **Tax Measures to Promote Technological R&D**

The Thai Cabinet has approved a draft Royal Decree that grants a triple deduction for qualifying research and development expenses incurred in certain targeted industries under the “Public-Private Collaboration” project for three consecutive accounting periods. The measure allowing the triple deduction is effective for accounting periods that begin on or after 1 January 2017 and end no later than 31 December 2019.

### **Thailand joins BEPS Inclusive Framework**

The Thai cabinet approved Thailand’s participation in the Base Erosion and Profit Shifting Project (BEPS Project) under the Inclusive Framework of the Organization for Economic Cooperation and Development (OECD). The BEPS project was initiated by the G20 countries in 2013 to tackle international tax avoidance, which causes countries to lose significant amounts of tax revenue annually. The BEPS action plan includes measures to prevent the artificial shifting of profits to avoid tax, measures to improve transparency and encourage intergovernmental cooperation, and the implementation of multilateral agreements that modify double tax treaties without the need to renegotiate each treaty individually. Participation in the Inclusive Framework will allow Thailand better access to information on multinational enterprises (MNEs) through the coordinated exchange of information among participating countries, including through the filing and exchange of “country-by-country” report, which contains information on an MNE’s economic activities, income/profits earned and taxes paid in each jurisdiction in which it does business.

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