

## Tax & Legal Services Newsletter

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### Inheritance Tax and Gift Tax

Thailand's inheritance tax and gift tax were promulgated on 5<sup>th</sup> August 2015.

**Inheritance Tax Act:** The inheritance tax will be levied at a rate of 5% in case that the beneficiary is an ascendant or a descendant of the testator or at the rate of 10% in other cases, on the portion of an estate deducted by any debts inherited that exceeds THB 100 million. Taxable items for purposes of the inheritance tax include immovable property, securities, deposits, vehicles with registration and financial assets as set out in the relevant royal decree.

**Act Amending the Thai Revenue Code No. 40:** A 5% rate will apply to beneficiaries of assets on the portion exceeding THB 20 million received from ascendants, descendants or spouses and the portion exceeding THB 10 million in case of gifts received from other persons. At year-end, the recipient of the gift is entitled to include such gift in other income.

The law becomes effective in the 180<sup>th</sup> date from 5<sup>th</sup> August 2015.

### Application of Lower VAT Rate Extended

The Thai Cabinet has approved a content of the draft royal decree that extends the application of the 7% VAT for an additional year due to global economic slow-down. The increase in VAT rate may affect the investment and domestic consumption which is in recession. The 7% VAT rate shall apply to the sale of goods, the provision of services and imports for the period 1 October 2015 through 30 September 2016.

## Reform of Customs Laws and Regulations

The Thai Cabinet has approved a draft act that consolidates the various customs regimes into a single act and makes the following changes:

- The penalties for customs violations are revised. For example, the penalty for submitting an undervalued declaration will be 50% of the duty payable (but not exceeding four times the duty payable) or imprisonment for a maximum term of 10 years, or both, where the person intends to engage in tax avoidance; and the penalty for importing or exporting goods without a proper license will be the penalty stipulated in the law governing the relevant goods or imprisonment for a term of three months to 10 years, or both;
- The statute of limitations for the customs' authorities to assess taxes will be five years from the date of importation or exportation;
- The monthly surcharge on unpaid customs duty is capped at duty payable; and
- The period to request a refund of customs duty will be extended from two to three years.

## Changes to Tax Concession for LTF/RMF

The Director-General's Notification No. 257-259 revises the rules on the personal income tax concession for long-term equity funds (LTF) and retirement mutual funds (RMF). Previously, an individual was allowed to deduct up to 15% of his/her total income, up to THB 500,000 per year for contributions to the funds. The new rules allow a deduction up to 15% of "taxable" income that is subject to personal income tax, up to THB 500,000 per year. As a result, an individual may not include any exempt income in the base when computing the concession.

## New Legislation Imposes Tax on "Tutorial Schools"

The Thai Cabinet has approved the Ministry of Finance's proposal that tax be imposed on "tutorial" schools that operate for commercial purposes, as well as changes to the tax privileges granted to private schools. Details of the new laws are as follows:

**Royal Decree No. 588** repeals the corporate income tax exemption on net profits and dividends derived from private schools in type of tutorial schools under the law on private schools

**Royal Decree No. 589** repeals the corporate income tax exemption granted to foundation/associations on income derived from private schools in type of tutorial schools under the law on private schools

**Royal Decree No. 590** contains measures to promote the operation of private schools that offer mandatory education. Personal income tax, corporate income tax, VAT, specific business tax (SBT) and stamp duty exemptions will be granted to a person who obtains a license to establish a private school and to a person who donates land to be used as a private school for the transfer of the land/immovable

property to the private school and for receiving the return of such property in case that the school ceases to exist or no longer uses the land.

**Ministerial Regulation No. 307** repeals the personal income tax exemption on income from private schools in type of tutorial schools under the laws on private schools and repealing the personal income tax on dividends/shares of profits derived from companies/juristic partnerships that operate private schools in type of tutorial schools under the law on private schools.

Additionally, the regulation gives the exemption from income tax amounts paid from aid funds for the retirement, disability or decease of directors, school executives, teachers or educational personnel.

### **New Regulations on Taxation of Certain Benefits**

The Ministry of Finance has issued a regulation on the payment of income tax on the advance rental/ownership value of assets (including buildings and residences) provided to individuals. Previously, these benefits were apportioned by reference to the rental period and were subject to income tax in the granted. Where this procedure was not followed, the right to apportion such income was lost. Under the new year the benefits were rule, income tax can be paid on the apportioned benefit even after March of the year following the year the benefit was granted, i.e. apportionment still is allowed subject to the imposition of a surcharge.

The departmental instruction no. Paw. 151/2558 also provides details on the timing and other mechanics of income tax on such advance benefits provided.

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