Extension of 7% VAT Rate

On 10 September 2019, the Thai Cabinet approved a draft Royal Decree that would extend the 7% VAT rate for another year, i.e. until 30 September 2020.

Tax Measure to Promote Private Sector Investment

On 20 August 2019, the Thai Cabinet approved a tax measure proposed by the Ministry of Finance that aims to promote the economy and private sector investment. Under the measure, a company will be able to deduct 150% of amounts invested in machinery during the period 1 September 2019 to 31 May 2020. One hundred percent of the amount invested will be deducted under the normal depreciation rules, and the additional 50% will be deducted equally over the depreciation period. The effective date of the measure has not been announced.

VAT Incentive for Research Services Revised

Notification of the Director-General of the Revenue Department on Value Added Tax No. 228, which was issued on 15 August 2019 and applies as from that date, revises the rules for granting VAT exemptions for research and academic services. According to the notification, the types of suppliers that are eligible for the exemption are amended to include a service delivery unit (SDU), a non-juristic company that is part of a government agency and meets specific requirements.
Deductions of Salary under Student Loan Fund Act
The 2017 Student Loan Fund Act requires employers to deduct amounts from their employees’ salaries to repay the Student Loan Fund (SLF). On 20 August 2019, the Director-General of the Revenue Department issued a notification (Notification No. 2) that requires employers to deduct the amounts from an employee’s salary via the e-PaySLF system on the Revenue Department’s website. The payer will be provided with a list of debtors and deduction amounts from the SLF, and the SLF must provide the employer with an electronic receipt within 10 days from the payment date. The notification applies retroactively as from 1 February 2019.

Supreme Court Decision
Value Added Tax on Financial Support
Company A, a car dealer for Company B, receives a subsidy from Company B to defray the costs it incurs for advertising and sales promotions. Company A made advance payments relating to the advertising and sales promotions, for which it requested reimbursement of only 80% from Company B. Company A did not charge VAT on the subsidy, because it did not consider the subsidy to be compensation for services (i.e. Company A was not obligated to perform any activities in exchange for the payment). The tax authorities, however, took the position that the subsidy was compensation for advertising services provided to Company B, which are subject to VAT. The company ultimately appealed the decision to Thailand’s Supreme Court.

The Supreme Court held that the advertising and sales promotions were organized by Company A to increase car sales, which ultimately benefitted Company B. However, if Company A’s genuine purpose had been to provide advertising services to Company B, it would have charged Company B more than its actual expenses instead of only 80%. Consequently, the court found that the subsidy was not compensation for advertising services, but was a benefit relating to the sales promotion activities and, accordingly, was not subject to VAT. Therefore, Company A was not required to include the subsidy in its VAT calculation.

Corporate Income Tax on Foreign Exchange Gain
Company A operates an electricity generation business that obtains investment promotion from the Thailand Board of Investment. The company procured funds to construct a power plant via a loan from a foreign financial institution, under the condition that it would begin repaying the loan when it generated commercial income. The loan was denominated in a foreign currency.

When converting the loan balance into Thai Baht (THB), the company incurred a foreign exchange gain for the 2010 accounting year. The company did not include the gain in its corporate income tax calculation for that year, but instead deducted the amount of the gain from the capitalized cost of the power plant. The tax authorities, however, took the position that the gain was taxable income and should be included in the company’s corporate income tax calculation. The company ultimately appealed the decision to Thailand’s Supreme Court.

The Supreme Court held that the company must convert the loan balance into THB on the last day of the accounting period, and that any resulting exchange rate gain should be included in the company’s taxable income for purposes of calculating its corporate income tax for 2010.
Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities. DTTL (also referred to as “Deloitte Global”) and each of its member firms are legally separate and independent entities. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our network of member firms in more than 150 countries and territories serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 264,000 people make an impact that matters at www.deloitte.com.

About Deloitte Southeast Asia

Deloitte Southeast Asia Ltd – a member firm of Deloitte Touche Tohmatsu Limited comprising Deloitte practices operating in Brunei, Cambodia, Guam, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam – was established to deliver measurable value to the particular demands of increasingly intra-regional and fast growing companies and enterprises.

Comprising approximately 340 partners and 8,800 professionals in 25 office locations, the subsidiaries and affiliates of Deloitte Southeast Asia Ltd combine their technical expertise and deep industry knowledge to deliver consistent high quality services to companies in the region.

All services are provided through the individual country practices, their subsidiaries and affiliates which are separate and independent legal entities.

About Deloitte Thailand

In Thailand, services are provided by Deloitte Touche Tohmatsu Jaiyos Co., Ltd. and its subsidiaries and affiliates.

© 2019 Deloitte Touche Tohmatsu Jaiyos Advisory Co., Ltd.