



Tax & Legal Services Newsletter

Tax Incentives for Foreign Economic and Trade Office

On 2 October 2018, the Thai cabinet approved a draft law that would amend the tax code, as well as a draft royal decree that would facilitate the establishment of a Foreign Economic and Trade Office (ETO). Permission to create the ETO previously had been granted by the cabinet following negotiation with the Ministry of Foreign Affairs. The main tax incentives to be granted to the ETO under the Thai Revenue Code are as follows:

- 0% VAT applies for the sale of goods and the provision of services to the UN, embassies and certain other international organizations under rules, procedures and conditions to be set forth by the Director-General of the Revenue Department (DGT).
- Tax exemption under the Thai Revenue Code would be granted to ETO and its personnel on the ETO's premises, residences of the ETO's head office personnel, vehicles owned by the ETO and its personnel, and salary, remuneration and per diem paid by the ETO to its employees related to operations in Thailand.

These tax incentives would have to be in conformity with any obligations Thailand has negotiated with the government/organization of a foreign jurisdiction.

Deduction of Donations to Political Parties

Following the 2017 Constitution Act on Political Parties, which allows a tax deduction for donations made to support Thai political parties, the Revenue Department has proposed the following amendments to the tax code:

- Individuals would be allowed to deduct cash donations made to political parties up to a maximum of THB 10,000 per tax year for the computation of Personal Income Tax; and
- Corporations would be allowed to deduct cash or in-kind donations to political parties up to a maximum of THB 50,000 per accounting year for the computation of Corporate Income Tax.

Additional Criteria for Tax Exemption on Transfer of Property to Infrastructure Fund

Following the issuance of Royal Decree No. 544, which grants an exemption from VAT, specific business tax and stamp duty for transfers of immovable property to the infrastructure fund, and the notification released by the DGT that sets out eligibility requirements, the tax authorities issued a notification on 8 October 2018 that introduces additional requirements for transfers to be exempt the specific business tax and stamp duty. In particular, the owner of the immovable property and the owner of the infrastructure fund must jointly prepare a document that verifies the transfer and submit the document to the Department of Land when registering the rights and juristic acts with respect to the property transfer, and notify the DGT of the transfer within 30 days of registration.

Revenue Department Ruling - Specific Business Tax for Amalgamations

The Revenue Department has issued a ruling on the liability for specific business tax in the case of an amalgamation. Companies A, B and C were amalgamated into a newly established company (NewCo). At the time of the amalgamation, the registered capital of NewCo equaled the total registered capital of the amalgamated companies, and the previous shareholders in the amalgamated companies became the shareholders in NewCo. All assets of companies A, B and C (including land and buildings) were transferred to NewCo as part of the amalgamation process. In this case, the amalgamated company failed to submit the notification forms, i.e. Kor.Aor.1, Kor.Aor.2, Kor.Aor.3 and Kor.Aor.4, to the DGT within the given timeline.

The Revenue Department ruled that the transfer of the land and buildings from the amalgamated companies to NewCo should be regarded as the sale of immovable property in a commercial transaction or profitable manner. However, where no registration of rights and juristic acts is made with respect to the transfer of the immoveable property, the amalgamated company would not be not subject to specific business tax on the transfer under section 91/2(6), 91/8 of the Revenue Code and Royal Decree No. 342.

Anthony Visate Loh

**Business Tax & Indirect Tax,
Legal Services**

Tel: +66 (0) 2034 0000 ext 40112
Email: aloh@deloitte.com

Chairak Trakhulmontri

Transfer Pricing

Tel: +66 (0) 2034 0000 ext 10338
Email: ctrakhulmontri@deloitte.com

Darika Sophonawat

**Business Tax (Japanese Services Group)
& Indirect Tax**

Tel: +66 (0) 2034 0000 ext 40115
Email: dsophonawat@deloitte.com

Dr. Kancharat Thaidamri

Transfer Pricing & Business Tax

Tel: +66 (0) 2034 0000 ext 40118
Email: kthaidamri@deloitte.com

Korneeka Koonachoak

**Business Tax (Business
Model Optimization)**

Tel: +66 (0) 2034 0000 ext 40122
Email: kkoonachoak@deloitte.com

Mark Kuratana

Global Employer Services

Tel: +66 (0) 2034 0000 ext 40125
Email: mkuratana@deloitte.com

Stuart Simons

Transfer Pricing & Customs Services

Tel: +66 (0) 2034 0000 ext 40135
Email: ssimons@deloitte.com

Wanna Suteerapornchai

Business Tax (M&A) & FSI

Tel: +66 (0) 2034 0000 ext 40144
Email: wsuteerapornchai@deloitte.com

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.

© 2018 Deloitte Touche Tohmatsu Jaiyos Co., Ltd.