



Tax & Legal Services Newsletter

Tax Evasion Now Considered Offense under Money Laundering Law

The Act Amending the Revenue Code No. 45, introduced on 1 April 2017 and which applies from 2 April 2017, provides that certain tax evasion activities now also are punishable offenses under Thailand's Anti-Money Laundering Law.

Specifically, tax evasion or tax fraud activities (as defined under sections 37, 37 bis or 90/4 of the Revenue Code) that involve an artificial business transaction designed to prevent the tracing of assets and that result in underpaid tax of THB 10 million or more in a tax year or involve a fraudulent tax refund claim of THB 2 million or more in a tax year fall within the scope of the new rules. In such cases, the Thai Revenue Department will forward the relevant information to the Anti-Money Laundering Office for further action.

New Requirements for Tax Exemption on Transfer of Assets

The Thai Revenue Department issued a notification on 20 March 2017 that sets out the requirements that must be met for a transfer of assets by an individual to form a new company to be exempt from revenue tax. The notification, which follows the issuance of Royal Decree No. 630, applies retroactively to transfers taking place on or after 10 August 2016.

The requirements provided in the notification include the following:

- The transferor must not be an ordinary partnership or non-juristic body of persons.
- The individual must transfer ownership in the assets to be contributed as the registered capital of a new company established between 10 August 2016 and 31 December 2017, and the amount of the transfer must be based on the market value of the assets.
- As part of the transaction, the transferor must receive shares in the newly established company in an amount that is at least equivalent to the assets transferred, and such shares must not be subsequently disposed of for less than their book value.
- Where the transferred assets consist of immovable property, the transferor and transferee must notify the Department of Lands officer and the Director-General of Revenue of the transfer in writing.

Income Tax Reduction for High-skilled Workforce in EEC

The Thai Cabinet has approved a tax measure aimed at attracting high-skilled workers to the industries targeted under the Eastern Economic Corridor (EEC) project. A personal income tax reduction (to a flat 17%) will be granted to individuals who work for companies operating within 10 targeted industries that have establishments in the EEC area, provided certain requirements are met.

Rules on Tax Exemption for Amateur Athletes and Coaches

A notification (Notification No. 293) issued by the Director-General on 31 March 2017 and that applies retroactively from 1 February 2016 sets out the requirements that must be met for prize awards received by athletes and coaches that win international amateur sporting events to be exempt from personal income tax. The notification supplements Ministerial Regulation No. 325, which limits the exemption to the amount of the award that exceeds THB 10 million.

The notification clarifies that:

- Eligible athletes and coaches must have received permission under the law governing the Sport Authority of Thailand to compete for Thailand in the international amateur sporting event.
- The prize award must be received within one year following the end of the sporting event, and the acceptance of the award must not commit or require the recipient athlete or coach to engage in any activities in exchange for receiving the award.

Revenue Department Rulings – Expat Assignment to Thailand

Company A is a Thai subsidiary of Company B, a Japanese corporation that regularly assigns its experienced executives to its foreign subsidiaries to ensure consistent management of its worldwide operations. Company B relocated one of its executives to Thailand to manage the operations of Company A. Although during the assignment the executive's salary was paid through Company A's payroll, technically the executive still performed services for and was regarded

as an employee of Company B; however, no service fee was charged by Company B to Company A under the arrangement.

The Thai Revenue Department ruled that Company B's assignment of its employee to work in Thailand for a consecutive period of more than one year creates a permanent establishment of Company B in Thailand under the Thailand-Japan tax treaty. Therefore, Company B must remit corporate income tax on a deemed service fee payment from Company A to Company B; the fee should be calculated based on the salary and other remuneration received by the executive from Company A. Further, a 5% income tax should be withheld at source by Company A on the deemed service fee payment and a 7% VAT should be charged on the payment and remitted to the Revenue Department.

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