



## THAILAND

### RECENT DEVELOPMENTS IN TAX LAWS AND REGULATIONS

#### Tax Exemption for Energy Saving Programmes (Royal Decree No. 436)

Companies that incur expenses related to the acquisition of energy saving replacement equipment are entitled to income tax exemption equivalent to 25% of total costs, not exceeding Baht 50 million. Conditions for eligibility of equipment are:

1. The equipment must be new;
2. The equipment must be acquired by the taxpayer and be ready for use no later than 31 December 2006;
3. The eligible expenses must be amortised over five tax years or five accounting periods, as the case may be;
4. The equipment must not be sold during the period of exemption; otherwise the tax exemption privilege will be revoked from the year in which the equipment is sold.

The taxpayer is required to file an application for tax exemption, and an energy-saving certificate for the equipment must be obtained from the Department of Alternative Energy Development and Efficiency.

Effective date: 6 October 2005.

#### Tax Incentives to Promote the Development of Labour Skills

(Royal Decree No.437)

In order to promote the development of labour skills, further tax incentives are granted to companies that have incurred costs relating to the provision of training for their employees, as summarised below:

1. Receipt of education or training - an increase in the deduction rate for training expenses from 150% to 200%. Expenses incurred for the provision of employee training were previously deductible at the rate of 150% of the actual cost under Royal Decree No.288. This new Royal Decree has increased the rate to 200% and applies to the following expense amounts:
  - Public training: the whole amount of the expenses incurred in sending employees for training at an educational institute or skilled labour training institute established by the Government or stipulated by the Minister of Finance.
  - In-house training: the whole amount of the expenses incurred in training employees in accordance with the rules, procedures and conditions in the Director-General's Notification on Income Tax No. 148, as summarised below:
    - i) The curriculum adopted for training the employees of a juristic company or partnership must be formulated for the purpose of developing the employees' labour skills and approved by the Ministry of Labour and Social Welfare, and the training cost per employee must be at the rate approved by the same ministry;
    - ii) The training must be for the benefit of the employer's business;
    - iii) The employees participating in the training must be employees of the employer;
    - iv) The employer must establish a condition requiring the employees who participate in the training to continue working after the training is completed;
    - v) The employer is required to identify the specifications, details and quantities of materials and equipment to be used in the training course so that they are not mixed up with those used in the business normally carried out by the employer.

2. Training preparation: Expenses incurred by companies in the preparation of training courses for employees are deductible at the following rates:

- 150% of the expenses incurred in the preparation of training courses for the benefit of the employer's business from 29 January 2003 until the day before the enforcement date of this Royal Decree (i.e. 18 October 2005).
- 200% of the expenses incurred in the preparation of training courses for the benefit of the employer's business as from the enforcement date of this Royal Decree (i.e. 19 October 2005).

Effective date: 19 October 2005.

### Tax Incentives for the Provision of Cost of Living Support for Lower Income Employees (Royal Decree No. 438)

To encourage employers to provide cost of living support to their lower income employees, companies which provide special cost of living allowances to their employees are entitled to claim a 50% additional deduction for corporate income tax purposes, subject to the conditions outlined below:-

1. If a special cost of living allowance of a maximum of Baht 1,000 per month is paid to employees who receive a salary of between Baht 7,000 and Baht 10,000, the combined salary and special living allowance must not exceed Baht 10,000; or
2. If a special cost of living allowance is paid to employees who receive a salary of Baht 7,000 or less, the combined salary and special living allowance must not exceed Baht 7,000 per month; or
3. In order for the special cost of living allowance to be eligible for the increased deduction rate, it must be paid to employees between 1 August 2005 and 31 December 2007, and payment must commence by 31 December 2005.

Effective date: 19 October 2005.

### 7% Value Added Tax (VAT) Rate to be Applied for Two More Years

(Royal Decree No. 440)

The 7% VAT rate will continue to apply on the sale of goods, provision of services and import of goods for two more years from 1 October 2005 to 30 September 2007.

### Tax Exemption for Special Purpose Vehicles (SPVs) for Securitisation

(Royal Decree 441)

Income tax exemption for SPVs under the Royal Decree on "Special Purpose Vehicles for Securitisation": The income eligible for exemption must be derived from a securitisation project and must be approved by the Office of the Securities and Exchange Commission (SEC).

This Royal Decree, however, will only apply to those assets converted pursuant to the criteria, methods and procedures under a notification of the Director-General of the Revenue Department. Currently, no notification has been issued by the Director-General.

Effective date: 24 November 2005

### Tax Exemption on Dividends Received by Thai Companies Holding Shares in Foreign Companies (Royal Decree No. 442)

Limited companies or public companies incorporated under Thai law are to be exempt from tax on dividends received from foreign companies, subject to the following conditions:

1. The company which is the recipient of the dividends must hold not less than 25% of the shares with voting rights of the company paying the dividends for a period of not less than six months before the date on which the dividends are received.
2. The dividends must be derived from net profits in the foreign country taxed at a rate of not lower than 15%.

3. In the event that a “special law” in a particular foreign country provides a reduced tax rate or exemption for the net profits under (2), the limited company which receives the dividends is still eligible for tax exemption. Information currently available indicates that this exception applies in cases where the company paying the dividend is granted a reduced tax rate under laws similar to those applicable to “Investment promoted Company” promotion, but would not apply if the income out of which the dividend is paid is itself tax-exempt dividend income).

Effective date: 24 November 2005

## Amendment of Tax Rules to Encourage Venture Capital Investment in Small and Medium Enterprises (SMEs) (Royal Decree No. 439 and Royal Decree No. 442)

A venture capital business is eligible for the following tax privileges if it invests in SMEs:

1. The venture capital business will be eligible for income tax exemption on dividend income or benefits from transfers of shares (gains) in the SMEs in which it invests.
2. An investor in the venture capital business will be eligible for income tax exemption on dividend income or benefits from transfers of shares in the venture capital business which holds investment in SMEs.

Royal Decree No. 396 required venture capitalists investing in small and medium enterprises (SMEs) to register with the SEC by 30 January 2005; however, in order to promote such investment, the registration period has been extended and will now end on 31 January 2008.

In addition, Royal Decree No. 442 has increased the flexibility of investment in SMEs by amending the time conditions in respect of investment in shares in SMEs. The period for which the venture capital firm is required to hold shares in the SMEs has been reduced as follows:

- From not less than seven consecutive accounting years to not less than five consecutive accounting years for general cases;

- From not less than five consecutive accounting years to not less than three consecutive accounting years for SMEs listed on the Stock Exchange;
- From not less than seven consecutive accounting years to an unspecified period in a case where throughout the period the SME holds fixed assets, excluding land, which do not exceed Baht two hundred million in value, and does not employ more than two hundred employees.

Effective date: 24 November 2005

## Specific Business Tax (SBT) Exemption for Relocation of Factory to an Industrial Estate (Royal Decree No. 442)

Juristic companies or partnerships that sell factories and land are liable to pay SBT on the sale at the rate of 3.3 percent of the proceeds (inclusive of municipal tax). In order to promote the relocation of factories to industrial estates, the sale of factories and land for the purpose of relocating to an industrial estate will be exempt from SBT, subject to the following rules and conditions:

1. The company must relocate the factory to an industrial estate within one year before or after the sale of the existing factory and land, and the relocation of the factory must be completed by 31 December 2010.
2. The value of the sales proceeds for SBT exemption shall not exceed the value of the new factory and land.

The value of the new factory and land will be based on the appraisal price applied for the purpose of charging the fees for the registration of rights and juristic acts under the Land Code. However, the above conditions will also be pursuant to the criteria, methods and procedures stipulated by the Director-General of the Revenue Department.

Effective date: 24 November 2005



### Tax Exemption for Compensation related to Tsunami Received from Insurance Company (Royal Decree No. 443)

Limited companies or juristic partnerships are to be exempt from tax on compensation received from an insurance company for damage arising as a result of the Tsunami on 26th December 2004. However, the exemption only applies to the compensation amount that exceeds the value of the cost of property remaining after deduction of wear and tear and depreciation under Section 65 bis (2) of the Revenue Code from the accounting period which begins on or after 1 January 2004.

Effective date: 30 November 2005

### Stamp Duty Exemption for Sale of Own Residence (Royal Decree No. 444)

In order to promote the second-hand housing market, stamp duty from the transfer of immovable property is to be exempt for the seller as follows:

The sale of:

1. House, building or other structure which is normally used as own residence.
2. Immovable property under (2) with land

3. Residential condominium unit in a condominium building under the law governing condominium buildings.

This exemption is available provided that the seller of the property has used such property as his/her own residence and his/her name has been listed in the house registration under the law governing citizen registration for a period of not less than one year from the date of acquisition of the ownership or the right to possession of such property. Moreover, the seller must have purchased a new property as his/her own residence within one year from the date of making the contract of sale in respect of such property. The stamp duty exemption will be equivalent to the stamp duty computed from the value of the said property, which must not exceed the value of the new property.

Effective date: 30 November 2005

### Specific Business Tax and Stamp Duty Exemption for Islamic Bank of Thailand in the Case of Transfer of Ownership of Immovable Property to Lessee due to Hire Purchase of Immovable Property (Royal Decree No.445 and Royal Decree No. 446)

As the Islamic religion prohibits financial business involving interest, the Islamic Bank must provide alternatives to its customers (i.e. revolving assets and immovable property) instead of money. This means that transactions in respect of the granting of credit for the purchase of immovable property incur specific business tax as well as stamp duty on the transfer of ownership, making the total expenses higher than those for other commercial banks for similar transactions. In order to reduce the expenses for the customers and to promote the business operations of the bank, specific business tax and stamp duty are to be exempt for the Islamic Bank only on the transfer of ownership of immovable property to a lessee under a hire purchase arrangement.

Effective date: 31 December 2005

# Thailand

## VAT Exemption for Certain Sales of Goods of Duty Free Shop at International Airports (Royal Decree No. 448)

In order to promote the sale of goods in duty free shops at international airports to individuals travelling into Thailand (inbound passenger) in certain cases, Royal Decree No. 448 was enacted to provide exemption from VAT on the sale of the following goods:

1. Goods purchased by an individual travelling into Thailand for personal use or for use in his/her profession at a price altogether not exceeding Baht 20,000.
2. Household goods purchased by an individual travelling into Thailand to the change of domicile at a total price not exceeding Baht 50,000.
3. No more than 200 cigarettes, or cigars or shredded tobacco not exceeding two hundred and fifty grams, or several kinds of tobacco products together not exceeding 250 grams (however, the number of cigarettes must not exceed 200).
4. Liquor of a quantity not exceeding one litre.

However, VAT exemption under this Royal Decree is only granted to the sale of goods of duty free shops located at international airport and this is also

pursuant to the criteria, methods and procedures prescribed by the Director-General of the Revenue Department on 24 January 2006. The Director-General prescribed that the procedures must be in accordance with the criteria, methods and procedures of the law governing customs.

Effective date: 24 January 2006.

## Specific Business Tax and Stamp Duty Exemption for SME Development Bank (Royal Decree No. 449 and Royal Decree No. 450)

Businesses of SME Development Bank are subject to specific business tax and also stamp duty in certain activities similar to those commercial banks. In order to alleviate the burden of the SME Development Bank in respect of the payment of specific business tax and stamp duty for certain activities and to support the operations of SMEs, Royal Decrees No. 449 and 450 were enacted to provide exemption from specific business tax and stamp duty to the Bank from 20 December 2002 onwards.

Effective date: 24 January 2006

