



## THAILAND

### DEVELOPMENTS IN TAX LAWS AND REGULATIONS FROM MARCH 2007 TO FEBRUARY 2008

In 2007, a number of developments took place in personal income tax, corporate income tax and value added tax. These developments were mainly aimed at bringing the tax regulations in line with the current situation, stimulating investment in the capital market and alleviating tax burdens for people and operators in the exclusive development zones. They are summarised as follows:

#### Personal Income Tax

1. Allowance for interest on mortgage loan increased to Baht100,000 (Ministerial Regulation No 264 issued on 12 December 2007, Departmental Notification on income No 165, 166 and 167)

The allowance for interest on a mortgage loan has been increased from Baht50,000 to Baht100,000. The increased allowance is applicable to interest paid from 1 January 2007 onwards.

2. Amendment to conditions for allowance on investment in Retirement Mutual Fund (RMF) (Ministerial Regulation No. 265 issued on 29 January 2008)

The Ministerial Regulation No. 265 now requires an investor to hold the RMF units until he/she reaches the age of 55 and the units have to be held for at least five calendar years before he/she redeems the units. If these conditions are met, the investor would be eligible for the allowance given at the time of acquisition of the investment in the RMF units and the gain from the redemption of the units would be exempt from tax.

However, in the case where the investor redeems the units after the five-year holding period but before he or she reaches the age of 55, although the gain from the redemption of the units would be exempt from tax, the investor would not be eligible for the allowance given at the time of the investment in the units. Accordingly, the investor will have to adjust his/her personal income tax return(s) previously filed.

This amendment is effective for the investment in RMF units on or after 1 March 2008.

#### Corporate Income Tax

1. Reduction of specific business tax rate for certain banking businesses (Royal Decree No. 469 issued on 23 January 2008, but effect from 1 January 2008)

The rate of specific business tax (SBT) would be reduced from 3% to 0.01% for revenue derived by commercial banks and finance, securities and credit foncier businesses under the law governing the finance, securities and credit foncier businesses as well as businesses with regular transactions similar to commercial banking. However, the reduced rate of SBT will apply only in the following circumstances:

- (1) Interest on loans between financial institutions or other juristic persons prescribed by the Director-General of the Revenue Department whereby the period of loan does not exceed one year.
- (2) Gross profit from resale of securities under repurchase agreements executed between financial institutions or other juristic persons prescribed by Director-General and the period of the agreement does not exceed one year.
- (3) Interest on cash collateral from the repurchase agreements of securities stated in (2) above.
- (4) Interest or discounts on debt instruments or gross profit from the purchase or sale of debt instruments.

- (5) Interest from securities lending.
- (6) Gross profit from exchange or purchase or sale of currencies.
- (7) Interest, fees or gross profit from the purchase or sale of forward contracts where the goods or variables of such contracts are, in any currencies, debt instruments, exchange rates, interest rates, or other goods or variables as prescribed by the Director-General and such contracts are made outside the forward contract sale centre under the law governing forward contracts, but excluding repurchase agreements of securities.

2. Income tax rate reduction for companies newly listed on the Stock Exchange of Thailand (SET) and the Market for Alternative Investment (MAI) before 31 December 2008 (Royal Decree No 467 effective on 18 October 2007)

Royal Decree No 467 was issued to reduce the rate of corporate income tax from 30% to 25% for a period of three accounting periods commencing from the accounting period starting on or after the date on which the companies were listed on the SET and to 20% for those listed on the MAI. The reduced tax rates are only applicable to companies which applied for listing on the SET or the MAI between 1 January 2007 and 31 December 2007 and the companies must be listed by 31 December 2008.

During the period in which the companies are enjoying the reduced income tax rate, they will not be permitted to take the benefit of the tax exemption of 25% of capital expenditure available under Royal Decree No. 460.

3. Tax reduction for exclusive development zones (Royal Decree 466 effective on 12 September 2007, Departmental Notification on income No. 164)

A tax package was issued to alleviate the tax burden for people and operators in an exclusive development zone. Exclusive development zones cover Narathiwat province, Pattani province, Yala province, Songkhla province (specifically in the localities of Jana district, Na Thawee district, Sabar Yoi district and The Pa district), and Satul Province. The details are as follows:

- (1) Income from the manufacture or sale of goods and provision of services

#### Juristic persons

Companies or juristic partnerships whose place of business is located within an exclusive development zone are subject to corporate income tax at the rate of 3% on the net profit from the manufacture or sale of goods or the provision of services within the exclusive development zone.

This reduction in the rate of income tax is effective from the accounting period of 2007 to the accounting period of 2009.

#### Individuals

An individual, whose place of business is located in an exclusive development zone, receiving income under Section 40 (7) and (8) of the Revenue Code from the manufacture or sale of goods or from the provision of services in the exclusive development zone, may choose to pay income tax on the income arising from 2007 to 2009 at the rate of 0.1% of the assessable income without having to include the same in the annual personal income tax computation.

- (2) Sale of immovable property

Individuals can receive preferential tax treatments from the sale of immovable property in an exclusive development zone during the period from 1 January 2007 to 31 December 2009.

- The withholding tax rate to be levied on the income from the sale of immovable property will be reduced to 0.1% if the total amount of the withholding tax is higher than 0.1% of the assessable income. At the end of the year, if tax has already been withheld at source at the rate of 0.1%, the individual may exclude the income from the annual computation of personal income tax provided that the individual does not apply for a refund of or a tax credit for the tax so deducted, either in whole or in part.
- The rate of specific SBT will be reduced to 0.1%.

4. Amendment to certain conditions of corporate income tax exemption on income from sale of machinery (Departmental Notification on income No. 163 issued on 25 April 2007)

Under Royal Decree No. 460 (effective from 14 July 2006), a juristic company or partnership which sells machinery and uses the income derived therefrom to purchase new replacement machinery within one year will be eligible for corporate income tax exemption on income from the sale of the machinery. The sale must be made during the period from 1 January 2006 to 31 December 2010. In addition, conditions under the Departmental Notification on Income No. 157 must be met, one of which is that the machinery must be used for manufacturing goods or the provision of services.

The Departmental Notification on Income No. 163 was issued in 2007 to amend this condition. This preferential tax treatment will now only be available for the sale of machinery used in manufacturing either for its own production or as a contract manufacturer.

In addition, if a company is listed on the SET, the above machinery must not be one for which the listed company has obtained an income tax exemption of 25 percent of the investment cost under Royal Decree No. 460, clause 3(1).

## Value Added Tax (VAT)

1. 7% VAT rate to continue for one more year (Royal Decree No 465 effective on 1 October 2007)

Royal Decree No. 465 was issued to grant a further extension of the 7% VAT rate for one more year on the sale of goods, provision of services and import of goods from 1 October 2007 to 30 September 2008.

2. VAT exemption for being host of the 24th Summer Universiade Games 2007 (Royal Decree No. 468 effective on 11 December 2007)

Business operators are allowed a VAT exemption for the donation of goods or the rendering of services to the Office of the Commission on Higher Education for the organisation of the 24th Summer Universiade Games 2007, without any benefit or consideration in return, irrespective of whether the donation was made before or after 11 December 2007.

3. Nature of research or technical services exempt from VAT (Departmental Notification on VAT No. 171 effective on 1 November 2007)

The rendering of research or technical services in the areas of science and social science will be exempt from VAT on the conditions that the service provider is an individual or a non-juristic body of persons and the services must not be for commercial purposes (according to the Departmental Notification on VAT No. 12).

The Departmental Notification on VAT No. 171 was issued to revise certain conditions of the Departmental Notification on VAT No. 12. The definition of service provider is extended to include a foundation and a university. Moreover, the provision of research or technical services can be for commercial purposes if the services are rendered to a government agency of ministry and department status, or to a government organisation under the law governing establishment of government organisation, government businesses under the law establishing such businesses, and business agencies owned by the government which are not of a juristic person status.

