Thailand

Development in tax laws and regulations from March 2015 to January 2016

Significant tax measures announced over the past year include continuous reduction of personal income tax, corporate income tax and value added tax rates and imposition of an inheritance tax and a gift tax. In addition, various tax incentives and measures to encourage tax compliance under the Revenue Code have been introduced.

Reduction of tax rates

Personal income tax rates

The following reduced personal income tax rates are effective for one more tax year until 31 December 2016.

<table>
<thead>
<tr>
<th>Net income (THB)</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 150,000</td>
<td>Nil</td>
</tr>
<tr>
<td>150,001 – 300,000</td>
<td>5%</td>
</tr>
<tr>
<td>300,001 – 500,000</td>
<td>10%</td>
</tr>
<tr>
<td>500,001 – 750,000</td>
<td>15%</td>
</tr>
<tr>
<td>750,001 – 1,000,000</td>
<td>20%</td>
</tr>
<tr>
<td>1,000,001 – 2,000,000</td>
<td>25%</td>
</tr>
<tr>
<td>2,000,001 – 4,000,000</td>
<td>30%</td>
</tr>
<tr>
<td>Over 4,000,000</td>
<td>35%</td>
</tr>
</tbody>
</table>

Corporate income tax rate

The corporate income tax rate of 20% was treated as a temporary reduction of the statutory rate of 30% under the Revenue Code since 2013. The statutory rate has now been officially changed to 20% under the Revenue Code for accounting periods beginning on or after 1 January 2016.

Corporate tax rates for small and medium-sized enterprises

Tax rates for small and medium-sized enterprises (SMEs) were announced during the year. For accounting periods beginning on or after 1 January 2015, the tax rates are as follows:

<table>
<thead>
<tr>
<th>Net profit (THB)</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 300,000</td>
<td>Nil</td>
</tr>
<tr>
<td>300,001 – 3,000,000</td>
<td>15%</td>
</tr>
<tr>
<td>Over 3,000,000</td>
<td>20%</td>
</tr>
</tbody>
</table>

To be eligible for the reduced tax rates, a corporation must meet the following conditions:

- Paid-up capital on the last day of any accounting period must not exceed THB5 million; and
- Income from the ‘sale of goods and provision of services’ must not exceed THB30 million in any accounting period.

In October 2015, the Thai Cabinet approved to replace the above SME corporate tax rates with a single rate of 10% applicable to net profits exceeding THB300,000 for two accounting periods beginning on or after 1 January 2015 but not later than 31 December 2016. However, at the time of writing, the relevant Royal Decree has not yet been issued.

Value added tax rate

The 10% standard rate of value added tax (VAT) has been reduced to 7% until 30 September 2016. Unless the applicable period of the reduced rate is extended, the rate will revert to 10% on 1 October 2016.
**Inheritance tax and gift tax**

The Inheritance Tax Act and the Revenue Code Amendment Act (gift tax) became law on 5 August 2015 and effective from 1 February 2016.

**Inheritance tax**

A legacy received by an individual or a juristic entity, regardless of the individual’s or the entity’s nationality, from a deceased testator is exempt from personal income tax under the Revenue Code but will be subject to inheritance tax. Heirs will be subject to the inheritance tax on the value of a legacy that exceeds THB100 million obtained from one testator on either one or several occasions.

The inheritance tax rate is 10% except in the cases where the heirs are an ascendant or a descendant of the deceased testator, in which case the rate is 5%. A legacy received by the spouse of a deceased testator is exempt from the tax.

Property subject to the inheritance tax is immovable property, securities as defined in the Securities and Exchange Law, bank deposit accounts or other money of a similar nature which the testators have the right to call back or claim from financial institutions or persons holding the money, registered vehicles and financial assets to be prescribed in Royal Decrees.

**Gift tax**

The Revenue Code Amendment Act introduces a gift tax which is levied when a gift is given by a living person. The gift will be subject to personal income tax under the Revenue Code. The tax is collected on assets or money given to parents, ascendants, descendants, spouse or others as a gift and based on the value of the gift when the prescribed threshold is exceeded, which depends on the type of gift and donor. The assets or money given that do not exceed the threshold are exempt from personal income tax.

The following gifts are exempt from personal income tax:

- The deemed income derived by a parent from the transfer of ownership or possessory right in an immovable property without any consideration to a legitimate child (excluding an adopted child), but only up to the portion of income not exceeding THB20 million throughout a tax year.
- Maintenance income or gifts from ascendants, descendants or spouse, but only up to the portion of income not exceeding THB20 million throughout a tax year.
- Maintenance income obtained under a moral obligation or gifts made in a ceremony or on occasions in accordance with established custom from persons that are not ascendants, descendants or spouse, but only up to the portion of income not exceeding THB10 million throughout a tax year.
- Income from gifts where the persons receiving the gifts use them for religious, educational or public benefit purposes according to the intention of the donors under the criteria and conditions mentioned in the Ministerial Regulations.

Income/gifts in excess of the thresholds noted in items 1-3 above will be subject to personal income tax at the rate of 5%.

**Tax incentives**

**Tax incentives for international headquarters**

Tax incentives that attract firms to establish international headquarters (IHQs) in Thailand became effective on 2 May 2015. These new IHQ incentives are intended to make Thailand an attractive investment centre for multinational companies.

An IHQ is defined as a company incorporated under the law of Thailand for the purpose of providing managerial, technical or supporting services or financial management to its associated enterprises or branches situated in Thailand or abroad. An IHQ can also carry on a business as an international trading centre (see ‘tax incentives for international trading centre’ below).

The criteria for being an IHQ are as follows:

- A company formed under the Thai law with minimum paid-up capital of THB10 million.
- Managerial, technical or supporting services (and financial management in the case of treasury centres as stated below) are provided to foreign affiliates (companies with at least 25% common group ownership, directly or indirectly).
- Operating expenses related to IHQ activities are of at least THB15 million per year.

The tax concessions are as follows:

- 10% corporate income tax on net profit from qualified services provided to domestic affiliates and royalties derived from domestic affiliates.
• Full corporate income tax exemption on net profit from qualified services provided to foreign affiliates, royalties and dividends derived from foreign affiliates and capital gains from the transfer of shares in foreign affiliates (subject to certain conditions).

• Withholding tax exemption on dividends paid to foreign corporate shareholders from the tax exempt net profit. Expatriates employed by an IHQ can choose to be taxed at a flat rate of 15% from the date the IHQ becomes qualified until the date the IHQ is no longer qualified or the employment is terminated.

Other features of the tax incentives are as follows:

• A qualified IHQ will be granted the above tax privileges for 15 accounting periods.

• The total income subject to tax at the 10% rate must not exceed the total income from qualified services and royalties which are exempt from tax.

• If an IHQ becomes disqualified in any accounting period, the right to the tax privileges will be suspended only for that accounting period.

**Tax incentives for treasury centres**

Effective from 2 May 2015, an IHQ that has obtained a treasury centre (TC) licence from the Bank of Thailand can request approval from the Revenue Department for enjoying the tax concessions available for carrying on a business of financial management for its associated enterprises or branches situated in Thailand or abroad.

Financial management includes the following:

1. Financial management of a TC permitted under the law governing exchange control.

2. Borrowing and lending of Thai currency in the following cases:
   a. borrowing of funds from Thai financial institutions or affiliates in Thailand; and
   b. lending of funds obtained from the operations in 1 or 2 (a) in Thai currency to affiliates in Thailand.

The tax concessions are as follows:

• withholding tax exemption on interest paid to foreign companies not carrying on business in Thailand on loans borrowed for re-lending to affiliates;

• exemption from specific business tax on interest received from loans to affiliates; and

• other tax concessions available for the TC activities are the same as those for IHQs discussed above.

A qualified TC will be granted the above tax privileges for 15 accounting periods. The criteria for being a TC are the same as those for an IHQ as discussed above.

If a TC becomes disqualified in any accounting period, the right to the tax privileges will be suspended only for that accounting period.

**Tax incentives for international trading centre**

The regulations regarding the international trading centre (ITC) regime became effective on 2 May 2015. Tax incentives are granted under the regulations to attract firms to establish ITCs in Thailand.

An ITC is defined as a company established under the law of Thailand and engaging in the business of buying and selling goods, raw materials and parts, including providing services relating to international trade to foreign juristic entities. Services relating to international trade include procuring goods, maintaining goods awaiting delivery, packaging, transporting goods, providing insurance for goods, providing technical services and training relating to goods, and providing other services as prescribed by the Director-General of the Revenue Department.

An IHQ is entitled to obtain an approval for carrying on a business as an ITC and enjoying the tax concessions for an ITC.

The criteria for being an ITC are as follows:

• a company formed under the Thai law with minimum paid-up capital of THB10 million; and

• operating expenses related to ITC activities are of at least THB15 million per year.
The tax concessions are as follows:

- exemption from corporate income tax on income from buying and selling goods abroad without importing such goods into Thailand (out-out), including income from services relating to international trade provided to foreign juristic entities and received in or from a foreign country;
- withholding tax exemption on dividends paid to foreign corporate shareholders from the tax exempt net profit; and
- expatriates employed by an ITC can choose to be taxed at a flat rate of 15% from the date the ITC becomes qualified until the date the ITC is no longer qualified or the employment is terminated.

A qualified ITC will be granted the above tax privileges for 15 accounting periods.

If an ITC becomes disqualified in any accounting period, the right to the tax privileges will be suspended only for that accounting period.

**Tax incentives for investment in special economic development zones**

Special economic development zones (SEZs) are border areas, whether inside or outside of industrial estates, created to promote economic connectivity with the neighbouring countries and to prepare for entry into the ASEAN Economic Community (AEC).

In the first phase, SEZs include certain areas (sub-districts) in the provinces of Trat, Tak, Mukdahan, Songkla, and Sa Kaew.

In the second phase, SEZs include certain areas (sub-districts) in the provinces of Nong Khai, Kanchanaburi, Chiang Rai, Nakhon Phanom, Narathiwat.

Tax incentives for investment in these SEZs will be granted by both the Revenue Department and the Board of Investment (BOI).

**Tax incentives granted by the Revenue Department**

With effect from 10 September 2015, the corporate tax rate has been reduced to 10% for 10 years for juristic entities with a place of business in a SEZ regardless of where their head offices are situated. This tax rate applies to income earned from goods manufactured or services rendered and used in the SEZ.

**Tax incentives granted by the Board of Investment**

With effect from 1 January 2015, the BOI has granted tax incentives for investment in eligible target and general activities in a SEZ.

To be eligible for the tax privileges as a promoted entity in a SEZ, certain general and specific conditions must be fulfilled e.g. modern production processes and new machinery, paid-up share capital at the required amount, adequate environment protection systems, debt to equity ratio not exceeding 3:1 and required area for operating the business.

**In addition, permission will be granted to employ foreign unskilled workers in promoted projects according to the conditions prescribed by the BOI.**

**Tax incentives for eligible target activities are as follows:**

- exemption from corporate income tax for a period of eight years, with the maximum corporate income tax exemption not exceeding 100% of the investment cost (excluding the cost of land and working capital);
- 50% reduction in the corporate income tax rate for five years, commencing from the date on which the tax holiday expires;
- double deduction of transportation, electricity and water supply costs for a period of 10 years, commencing from the date on which revenue begins to be generated from the business;
- 25% deduction of the investment cost of the installation or construction of facilities in addition to normal depreciation;
- exemption from import duty on machinery; and
- exemption from import duty on raw materials and essential goods used in the production of goods for export for a period of five years.

**Tax incentives for eligible general activities are as follows:**

- additional corporate income tax exemptions for three years, but not exceeding eight years in total;
• 50% reduction in the corporate income tax rate for five years, commencing from the expiry date of the applicable tax holiday; and
• other incentives are the same as those for the eligible target activities.

The application for the above tax incentives must be submitted by 31 December 2017.

**Measures to encourage tax compliance under the Revenue Code**

**No tax audits for certain companies and juristic partnerships**

With effect from 1 January 2016, tax audits and assessments (including the related criminal fines that may be imposed according to the Revenue Code) will be waived for companies and juristic partnerships that are subject to corporate income tax on net profit (instead of gross income) in respect of:

• corporate income tax for accounting periods beginning before 1 January 2016;
• value added tax and specific business tax for tax bases occurring before 1 January 2016; and
• stamp duty for instruments executed before 1 January 2016.

To be eligible for this waiver, the companies and juristic partnerships must meet the following conditions:

• Revenue earned must not have exceeded THB500 million in the past full 12-month accounting period which ended on or before 31 December 2015.

Any company and juristic partnership that has registered and been granted a waiver of tax audit will not be entitled to the waiver in certain cases e.g. a summons for tax investigation has been issued before 1 January 2016, a tax refund claim has been submitted in respect of a period prior to 1 January 2016, fake tax invoices have been issued or used and tax cases involving the company/juristic partnership are still under legal process.

If a company or juristic partnership obtaining a waiver of tax audit fails to comply with the above conditions, the Director-General of Revenue will revoke the waiver. Such entity will then be treated as if it never received a waiver.

**Tax exemption and reduction for small and medium-sized enterprises**

SMEs which have registered for the above waiver of tax audit are entitled to obtain additional benefits in the form of income tax exemption and reduction.

To be eligible for these benefits, the SMEs must meet the following conditions:

• Paid-up capital on the last day of any accounting period must not exceed THB5 million.
• Income from the sale of goods and provision of services must not exceed THB30 million in any accounting period.
• Registration for a waiver of tax audit must have been made as mentioned above.
• The waiver of tax audit must not have been revoked.

The exemption from and reduction in the rate of corporate income tax granted to qualifying SMEs established before 1 January 2016 are as follows:

• For the accounting period beginning between 1 January 2016 and 31 December 2016, all net profit will be exempt from corporate income tax.
• For the accounting period beginning between 1 January 2017 and 31 December 2017, the rate of corporate income tax will be:

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• For accounting periods beginning on or after 1 January 2018, the tax rates will revert to the previous rates, which are:

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