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What's New?

Permanent reduction in corporate income tax rate

Not much of a surprise but good news nonetheless, the temporary reduction in the corporate income tax rate for Thai companies of 20% is here to stay. On 22 January 2016, the Parliament passed an amendment to the Revenue Code permanently reducing the corporate income tax rate.

The initial rate reduction from 30% to 23% in 2012 and further reduction to 20% in 2013, which is now permanent, ensures that Thailand remains competitive in the ASEAN region.

Inheritance and Gift tax

The Inheritance Tax Act and Gift Tax Regulations became effective from 1 February 2016.

Under the Inheritance Tax Act, Thai nationals (including non-Thai nationals who are Thai residents under immigration law of Thailand) will be subject to inheritance tax on the net value of inherited property worldwide in excess of THB100 million. Non-Thai nationals will be subject to inheritance tax on the net value of inherited property situated in Thailand only in excess of THB100 million.

Any inheritance received by a spouse will be exempt from inheritance tax in all instances. Parents and descendants will be subject to 5% tax rate on the net value of property above the THB100 million threshold. Other persons will be subject to 10% inheritance tax.

Under the Gift Tax Regulations, the parent will be exempt from tax on the gifts of immovable property transferred to a child or children (excluding an adopted child) up to the amount of THB20 million in a tax year. The value of immovable property above this threshold is taxed at 5%. If immovable property is received by a person other than a lawful child, the value of all gifted immovable property received in a tax year is subject to tax at the progressive personal tax rates.

Gifts of money and other property received from parents, descendants and spouses are tax exempt up to the amount of THB20 million in a tax year. Gifts of money and other property received from persons who are not parents, descendants or spouses are tax exempt up to the amount of THB10 million in a tax year. The amount above these thresholds is taxed at 5% for both categories of the recipients.

Gifts of money, immovable property and other property received by persons or juristic entities for religion, education or public benefit are tax exempt, but only as specifically provided in Ministerial Regulations.

Limitation on income base for the LTF and RMF contributions

Contributions to Long-Term Equity Funds ('LTFs') and Retirement Mutual Funds ('RMFs') are allowed as tax deductions in the same income year.

Last year, the Director-General issued notifications that will limit the assessable income that can be used as the base for purchasing LTFs or RMFs. Previously, a taxpayer could purchase a LTF or RMF for an amount up to 15% of the taxpayer's *assessable* income. Under the new rules, a taxpayer can purchase a LTF or RMF for an amount up to 15% of the *taxable* income.

The Revenue Department has recently issued a notification clarifying what constitutes 'taxable income' for the LTF and RMF contribution purposes.

The general rule is that 'taxable income' in this instance means all income that an individual receives which is considered as taxable, before taking into account any exclusions or deductions. This would mean that it will also include interest income, income from the termination of employment, income from the sale of land or dividend income from a taxpaying business. These items would generally be taxed separately but excluded from computing annual personal income tax. Additional tax deductions such as contributions to a provident fund or interest for a housing loan will not reduce the taxable income on which the 15% limit is applied.

The following income will, however, not qualify as 'taxable income' for LTF and RMF investment purposes as they regarded as tax exempt:

- Dividend income from tax exempt businesses under the Board of Investment ('BOI') privileges;
- Severance pay up to THB300,000;
- Exempt income classified under Section 42 of the Revenue Code. This includes (but is not limited to) certain transport related reimbursements for employment purposes; special allowances granted to officials of a Thai embassy or consulate

abroad; certain interest income including interest on a savings deposit with a bank in Thailand (provided it does not exceed THB20,000 in a tax year); income from the sale of movable property acquired under an inheritance or non-profitable manner; income from maintenance; special or inherited pension or gratuity; income from the sale of investments in a mutual fund; compensatory benefits received from a social security fund, etc.; and

- Certain income under Ministerial Regulation No.126. This regulation provides a long list of very specific income mainly relating to education, governmental grants and rewards, agriculture, tin metal, art, expropriated property, social security, health care, certain funds, religion, retirement, etc. One of the exclusions listed is remuneration or benefits received from the redemption of LTF and RTM funds where they were held for more than 5 years.

In summary, the explanation provided by the Revenue Department clarifies that certain income that would ordinarily be exempt for income tax purposes is included in the definition of the 'taxable income' for LTF and RMF contribution purposes, thus giving the taxpayer the higher base to which the 15% limitation will apply.

BOI incentives to accelerate investments

In order to further boost and accelerate investment into Thailand, the BOI has announced additional tax benefits for applications submitted to the BOI during the period 1 January 2014 and 30 June 2016, provided that the business operations commence by the end of 2017, but do not generate revenue before 16 November 2015.

The additional incentives provide an extension of the corporate income tax exemption and/or a reduction of the corporate income tax rate. It is important to note that in all instances, the total corporate income tax exemption period is capped to 8 years including the additional extension provided under this acceleration scheme.

Regardless of whether the project is located in a designated Special Economic Development Zones ('SEZs') or any other general location in Thailand, the additional incentives are as follows:

- Where the investment occurs by 30 June 2016 and at least 70% of the investment in building and machines has been incurred by this date, an additional corporate income tax exemption for 4 years will be granted along with a 50% reduction in the corporate income tax rate for a period of 5 years thereafter.
- Where the investment occurs by 30 June 2016 and at least 50% of the investment in building and machines has been incurred by this date, an additional corporate income tax exemption for 3 years will be granted along with a 50% reduction in the corporate income tax rate for a period of 5 years thereafter.
- Where the investment occurs by 31 December 2016 and at least 50% of the investment in building and machines has been incurred by this date, an additional corporate income tax exemption for 2 years will be granted along with a 50% reduction in the corporate income tax rate for a period of 5 years thereafter.
- Where the investment occurs by 31 December 2016 and less than 50% of the investment in building and machines has been incurred by this date, an additional

corporate income tax exemption of 2 years will be granted where the projects is located in a SEZ, and only a 1 year additional corporate income tax exemption will be granted for projects in any other area.

Taxpayers have until 30 June 2016 to make an application to the BOI in order to take advantage of these additional tax incentives.

In the news

Biz Insight: Aggressive tax audits are expected in the year ahead
The Nation, 13 January 2016
Benjamas Kullakattimas (Partner and Head of Tax, KPMG in Thailand)

At the end of last year, the government issued many tax measures to spur the economy. Of course, the consequential reduction in government revenue results in the need to find other sources of income to compensate. It seems that tax audits will be used as a tool to increase the government's tax revenue.

คอลัมน์ :ครบคิด พิชิต AEC: จับตาอาเซียนปรับกฎป้องกันเลี่ยงภาษี
Post today, 21 January 2016
Benjamas Kullakattinas

An article discussing the BEPS initiative by the OECD and ASEAN's participation in light of AEC.

มองภาษีผ่านเทรนด์โลก
Forbes Thailand magazine, January 2016
Benjamas Kullakattimas

An article highlighting areas which business should consider in coming years.

In Focus

Issue 1: Double Taxation Treaty between Thailand and India Renegotiated

Issue 2: Tax Audit Exemption and Incentive Programs for SMEs

Should you have any questions, please contact Khun Benjamas Kullakattimas, Head of Tax, KPMG in Thailand at benjamas@kpmg.co.th.

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information without appropriate professional advice after a thorough examination of the particular situation.