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Proposed amendments to Thai Revenue Code – currency conversion and functional currency methods

On 6 June 2018, the Thai Revenue Department (“TRD”) released draft amendments to the Thai Revenue Code (“TRC”) to introduce alternative currency conversion methods and a new functional currency approach (“the proposed amendments”). The key features are summarized below.

Key contacts

Benjamas Kullakattimas
Head of Tax,
KPMG in Thailand
benjamas@kpmg.co.th

John Andes
Partner
International Tax Services
jandes@kpmg.co.th

Tatiana Bespalova
Partner
International Tax Services
tbespalova1@kpmg.co.th

Nipawan Passarapark
Tax partner,
Global Compliance Management Services (GCMS)
nipawan@kpmg.co.th

Pornpen Eurpiyachat
Tax partner,
Global Compliance Management Services (GCMS)
pornpen@kpmg.co.th

Alternative methods for converting foreign currency to Thai baht

Section 65 bis (5) of the TRC currently prescribes methods for converting foreign currencies, assets and liabilities to Thai baht for Thai tax purposes.

The proposed amendments will introduce two new, alternative methods for use by juristic companies or partnerships (other than commercial banks or designated financial institutions) to convert foreign currencies, assets or liabilities to Thai baht at the end of each accounting period. The three available conversion options will be as follows:

- The average buying rate (for converting foreign currencies or assets) or the average selling rate (for converting liabilities) of commercial banks, as ascertained by the Bank of Thailand;
- The average of the buying and selling rates of commercial banks, as ascertained by the Bank of Thailand; or
- Other methods in compliance with accounting principles under the rules, methods and conditions prescribed by the Minister in a Ministerial regulation (no other methods have been proposed yet).

The first method is currently prescribed by Section 65 bis (5)(a) of the TRC. The second and third methods will be added to that provision under the proposed amendments.

The proposed amendments will also repeal Section 65 bis (8), which relates to the conversion of the cost of goods from foreign to Thai currency. It appears that this will be covered by Section 65 bis (5)(a) after Section 65 bis (8) is repealed, but the precise impact of the amendments is unclear.

Introduction of new functional currency method

The proposed amendments will also introduce a new functional currency method, which may be adopted by certain entities (juristic companies or partnerships) that use functional currency for accounting purposes. The proposed method has the following features:

- Under new Section 76 Ter, entities that use certain foreign currencies prescribed by the Minister as their functional (operating) currency can notify the Director-General that they will use that foreign currency to prepare their financial statements for tax purposes and to calculate their net profit, gross income and income tax payable or refundable. Eligible entities must transition to the functional currency method on the first day of an accounting period after notification. Details of the foreign currencies that will be prescribed by the Minister have not yet been released. Once a functional currency method is adopted, any subsequent changes to that method must be approved by the Director-General.

- New Section 76 Quarter explains how eligible entities should transition to functional currency. Items in Thai baht in the entities' financial statements (including currencies, assets and liabilities) on the last day of the accounting period before the transition must be converted to functional currency in accordance with accounting principles under the rules, methods and conditions prescribed by the Minister. Other items including losses carried forward must be converted by using the average of the buying and selling rates of commercial banks, as ascertained by the Bank of Thailand, for the last day of the accounting period before the transition to functional currency. Further details of these transition methods have not yet been released.

- Under new Section 76 Quinque, eligible entities will be exempt from the currency conversion rules in Section 65 bis (5). Instead, at the end of each accounting period, any currency, asset and liability balances that are not in functional currency must be converted into functional currency using one of the following methods:

    - The average of the buying and selling rates of commercial banks as ascertained by the Bank of Thailand or, if this is not viable (e.g. where converting a non-Thai currency into functional currency), another method approved by the Director-General. Once a method has been approved, any subsequent changes must also be approved by the Director-General.
    - Another method in compliance with accounting principles under the rules, methods and conditions prescribed by the Minister.

  Currencies, assets and liabilities that are received/acquired or spent/incurred during the accounting period and are not in functional currency must be converted into functional currency by using the market rate on the date of receipt or payment.

- New Section 76 Sex provides that, under the functional currency method, tax payments or refunds must still be made in Thai baht. The payment or refund amount must be converted from functional currency to Thai baht by using the average of the buying and selling rates of commercial banks, as ascertained by the Bank of Thailand, for the day before the date of the tax payment or the date of approval of the tax refund.

- Under new Section 76 Septem, foreign exchange gains or losses from conversions to functional currency (or from changes between different functional currencies) will not be taxable income or deductible expenses.

KPMG's observations

The proposed amendments will be effective from 1 January 2019. However, as entities must notify the Director-General before adopting the functional currency method, it is likely that entities with calendar year accounting periods will only be able to transition to functional currency from 1 January 2020 (unless they alter their accounting periods).

The proposed amendments may solve a number of problems faced by many entities. A public hearing process is currently underway and will run until 20 June 2018. KPMG intends to make submissions seeking clarification on the areas of uncertainty outlined above. We encourage all public stakeholders to submit their comments on the proposed amendments.
