KPMG

Tax & Legal News Flash

KPMG in Thailand

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New International Business Centre (IBC) regime introduced to replace ROH and IHQ

The Thai Revenue Department ("TRD") has announced suspending tax incentive regimes previously provided for the Regional Operating Headquarters ("ROH"), International Headquarters ("IHQ") and International Trade Center ("ITC"). This is to be in accordance with the implementation plan of the Inclusive Framework on the Base Erosion and Profit Shifting (BEPS) joined by Thailand.

New applications are no longer accepted, and the currently submitted applications with the TRD for any of these regimes are suspended from 10 October 2018.

The TRD has confirmed that existing beneficiaries of the ROH, IHQ and ITC regimes will be able to continue benefiting from the associated incentives in normal circumstances until the expiry date, unless they choose to convert to the new scheme.

To replace the ROH and IHQ regimes, the Thai government will introduce a new scheme called International Business Centre ("IBC"). The draft Royal Decree that provides rather limited outline of the new IBC regime was approved in principle by the Cabinet. It is understood that the TRD will further develop the details of this new scheme. It is unclear when the new law will become effective and whether public consultation will be held prior to that.

Based on the limited information available at this stage, the new IBC regime will replace the ROH and IHQ regimes and will continue offering a number of incentives to multinationals intending to invest or currently holding investments in Thailand, similar to those provided under the previous regimes and in line with the Thai government's aim to continue promoting Thailand as an international operating and administrative hub for Southeast Asia. It is not clear whether any replacement scheme will be introduced for the ITC regime.

Briefly, the TRD confirms that the new IBC regime will provide reduced Corporate Income Tax ("CIT") rate of 8%, 5% or 3% of IBC profits depending on the level of annual expenditure in Thailand of the company, being THB 60 million, THB 300 million and THB 600 million, respectively.

Dividend income received by the IBC from its subsidiaries should be exempt from CIT. Further, the IBC will provide Specific Business Tax ("SBT") exemption on income received from financial management activities for its subsidiaries and 0% Thai withholding tax on qualifying dividend and interest payments made by the IBC entity to its foreign

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shareholders and/or lenders (similar to previous incentives available under the IHQ regime).

In addition, the current reduced Personal Income Tax ("PIT") flat rate of 15% that is applicable under the ROH and IHQ regimes will continue to apply for eligible expatriate employees of qualifying companies under the new IBC regime.

In order to qualify for the IBC regime, applicants must comply with the following minimum requirements:

- have registered share capital of at least THB 10 million;
- have annual operating expenditure in Thailand of at least THB 60 million (not applicable to existing beneficiaries of the ROH1, ROH2 and IHQ that will be transitioning to the new IBC regime); and
- employ at least 10 people (i.e. minimum 5 people applied exceptionally for companies operating financial management activities only).

KPMG observations

Ten months after the EU and OCED released their findings on these Thai tax regimes, the TRD's announcement comes as very welcome and long-awaited certainty for the existing beneficiaries of the ROH, IHQ and ITC regimes.

For taxpayers that were in the process of applying, or were considering to apply, to the TRD for one of these regimes, the abrupt suspension of the application processing came as a surprise. The new applicants will have to wait for further legislative developments of the IBC scheme. However, even with limited information released, it is clear that greater substance will be required under the IBC through the proposed higher levels of annual expenditure in Thailand and head count.

The positive aspect for existing beneficiaries of the regimes and new investors is that the reduced personal income tax rate of 15% will continue to apply for expatriate employees based in Thailand, allowing companies the ability to attract top overseas talent through tax benefits.

The BOI has not made any announcement as to whether there will be any changes to the existing incentive schemes or whether a new scheme corresponding to the TRD's IBC will introduced.
KPMG is at the forefront of these developments in Thailand and we will continue keeping you update on any further announcements.